

1 physician and he doesn't treat people the way
2 you're treating me right now. All I'm asking
3 you is what's going on. And frequently the
4 residents will know what's going on, but they
5 won't communicate to us nurses whether the
6 doctor has this place to go, that to do, they
7 want to be home at this certain time. It's
8 frequently those types of scenarios.

11:02:35

9 When I told him that my brother was
10 a doctor and he didn't treat people the way he
11 was treating me, and how I thought I was being
12 disrespected, I said, I just may very well go
13 talk to Dr. Jenison about it. He said, I don't
14 talk to you, Kim. I don't talk to you unless I
15 have to.

11:03:11

16 Q. Okay.

17 A. That's when I went to Judy and I
18 just said I was frustrated. I'm doing a job
19 and taking care of the patients to the best of
20 my ability. And it's difficult at times to
21 feel like you're constantly being rushed.
22 You're doing your job the way it's supposed to
23 be. You're upping the Pitocin the way it's
24 supposed to be per ACOG standards, but
25 sometimes it isn't fast enough for some of the

11:03:42

1 residents or attendings.

2 Q. So the doctor indicated to you that
3 he wanted the Pitocin to be upped at a faster
4 rate than you were doing it?

5 A. Correct.

11:03:52

6 Q. You asked him why are we in such a
7 hurry?

8 A. Yes.

9 Q. Why did you ask him that?

10 A. Why? Because frequently that
11 happens. People are in a hurry. They either
12 want the bed, they don't want to stay up at
13 night.

11:03:56

14 Q. Did it bother you what the doctor
15 was asking you to do?

11:04:04

16 A. It bothered me because the patient
17 was adequately contracting. She was adequate.
18 And he wanted more Pitocin.

19 Q. So you were questioning the
20 doctor's judgment?

11:04:19

21 A. I was wondering why they were in
22 such a hurry.

23 Q. Who is Dr. Jenison?

24 A. He's chief of OB.

25 Q. Did you go talk to Dr. Jenison

11:04:40

1 after you threatened to?

2 A. No, I didn't.

3 MR. MYERS: Objection. Go ahead
4 and answer.

5 A. I talked to him once as he was 11:04:46
6 coming through the unit, asked if I could talk
7 to him, but I never got back to him.

8 Q. Why didn't you get back to him?

9 A. I just didn't.

10 Q. Any other complaints to Judy Ezzie 11:05:09
11 regarding Dr. Huynh?

12 A. Not that I can think of at this
13 time.

14 THE WITNESS: Can we take a break?

15 (Recess had.) 11:05:38

16 Q. When you came here today you asked
17 Maureen about her retirement. How did you
18 learn about that?

19 A. Somebody told me from the hospital.
20 I'm trying to remember who. It might have been 11:25:29

21 Lori. It might have been Lisa. I'm not sure.

22 Q. Okay.

23 A. I still got friends who are there.

24 I still hear things that go on at Akron

25 General. 11:25:58

1 Q. Before we broke, we were talking
2 about complaints that you had made to Judy
3 Ezzie?

4 A. Yes.

5 Q. You mentioned that you made 11:26:14
6 complaints regarding residents. What residents
7 were you talking about?

8 A. Dr. Huynh was a resident.

9 Q. Other than Dr. Huynh.

10 A. I think I talked to her about Dr. 11:26:29
11 Byler. Who was the other one? Dr. Byler, a
12 lot of times she'll be sweet and talk real kind
13 to your face and then as you're walking away,
14 you can hear her talk to one of the other
15 residents or someone and say some kind of 11:27:00
16 derogatory comment. And they need to come to
17 us directly and talk to us and they don't do
18 that all the time.

19 Q. Okay. Are you claiming that Dr.
20 Byler was sweet to your face and said 11:27:20
21 derogatory comments as you walked away?

22 A. I've heard her do that with other
23 people, not just myself.

24 Q. Heard her do that with others in
25 addition to yourself? 11:27:32

1 A. Right. It happens around that unit
2 quite a bit.

3 Q. What other people have you heard
4 her do that to?

A. I can't say right now for sure
specific scenarios, but I've heard it.

11:27:39

7 Q. But you can't recall a single
8 scenario?

9 A. Not right off the top of my head,
10 no.

11:27:57

11 Q. How about Dr. Byler's interaction
12 with you, tell me about what she said when
13 she's been sweet to your face and as you were
14 walking away said a derogatory comment?

15 A. I can't remember the exact
16 scenario. I just know it's happened.

11:28:19

17 Q. What do you mean by derogatory
18 comment?

19 A. Something like, oh, she's just so
20 difficult or she's so -- makes some kind of 11:28:40
21 derogatory comment about me.

22 Q. About being difficult?

23 A. Something to that effect.

24 Q. Anything else?

25 A. With Dr. Byler? 11:28:55

1 Q. Any other derogatory comments other
2 than you being difficult or something to that
3 effect?

4 A. Other than the scenario with The
5 Last Chance Agreement, that scenario with her, 11:29:32
6 is that what you're referring to also?

7 Q. I'm just asking if there were other
8 derogatory comments made by Dr. Byler about
9 you?

10 A. I can't think of anything direct 11:29:46
11 right at this moment.

12 Q. You can't recall any derogatory
13 comments made by Dr. Byler about others?

14 A. Not the exact scenarios, but no, it
15 has occurred. 11:30:10

16 Q. You can't remember who these others
17 were who she allegedly made derogatory comments
18 about?

19 A. No, not directly.

20 Q. You complained to Judy Ezzie about 11:30:17
21 Dr. Byler?

22 A. Yes, I have.

23 Q. On how many occasions?

24 A. When there would be situations with
25 a lot of the residents, you would go and talk 11:30:29

1 to Judy about it.

2 Q. On how many occasions --

3 A. I don't know for sure.

4 Q. More than five?

5 A. I wouldn't say.

11:30:36

6 Q. More than two?

7 A. Possibly.

8 Q. What did you complain to Judy Ezzie
9 about regarding Dr. Byler?

10 A. Just exactly what I told you. She
11 would be real sweet and kind to your face then
12 she would make some kind of derogatory comment
13 as she's walking away, mumbling under her
14 breath. I'm trying to think who it was.

11:30:53

15 Katie Wolf was another one, she was
16 another one a lot like Byler, be real sweet to
17 your face and make derogatory comments.

11:31:22

18 Q. Katie Wolf is a resident?

19 A. She was at the time. She's an
20 attending now. I don't know where she's at.

11:31:33

21 Q. Did you complain to anyone
22 regarding Ms. Wolf?

23 A. I'm sure I complained to Judy about
24 Ms. Wolf, yes.

25 Q. And what did you complain about?

11:31:47

1 A. Same type of scenario, be sweet to
2 your face, negative comments as we're walking
3 away.

4 Q. What specifically did she say as
5 you were walking away?

11:32:03

6 A. I'm not real -- I don't remember
7 and I'm not going to say unless I remember.

8 A lot of times the residents would
9 have a hard time with us older nurses because
10 we've been doing this job a very long time,
11 I've been doing it longer than some of them
12 have almost been alive. And I think they had a
13 hard time with us nurses trying to give them

11:32:20

14 ideas, suggestions, or even I don't know
15 whether they felt threatened like we were
16 trying to tell them how to do their job. I
17 don't know.

11:32:34

18 Q. You don't remember any derogatory
19 comments that Dr. Wolf ever made?

20 A. Not specific, no. A lot of times
21 you have to let these things brush off, you go
22 on, do your job, take care of the patients.

11:32:55

23 Q. But you do recall that you
24 complained to Judy about that?

25 A. Yes.

11:33:09

1 Q. What residents had a hard time with
2 older nurses?

3 A. I know Dr. Tom Heffernan did.
4 Sometimes -- I feel that the most of them did.

5 Q. Who else besides Heffernan? 11:33:39

6 A. I think Dr. Huynh did. I think Dr.
7 Byler did. I think Dr. Anagnostou did. I
8 think -- Dr. Smelcer, he was pretty laid back.
9 He just got along with everybody. Just
10 having -- Dr. Godwin pretty well got along with 11:34:06
11 everybody. I'm just trying to remember. I've
12 been through so many residents in 26 years.

13 I'm just basically talking about the group
14 that's been here the last two, three years.

15 Q. Why do you believe Dr. Heffernan 11:34:32
16 had a hard time with older nurses?

17 A. Because he'd argue a lot of time
18 with older nurses. I didn't have a problem
19 with him, but I know Lori Wykoff did, and there
20 were -- I'm not sure who the other people are. 11:34:47
21 I don't remember right now. I know she
22 specifically had a hard time. I think her
23 scenario was she was suggesting something to
24 him to try with a patient, he took offense she
25 was trying to tell him how to do his job. 11:35:05

1 Q. When you say older nurses, do you
2 mean experienced nurses or are you talking
3 specifically about age?

4 A. I think I'm talking about both.

5 Q. Did Dr. Heffernan ever make any 11:35:20
6 comments related to yours or anyone else's age?

7 A. I can't say specifically about
8 anyone else's age and I don't remember my age,
9 but I think it has to do with a lot of these
10 residents with both age and experience. 11:35:39

11 Q. Did Dr. Heffernan ever make any
12 comments that you heard related to anyone's
13 age?

14 A. Not that I can say, no.

15 Q. Why do you believe that it relates 11:35:57
16 to age then?

17 A. Because we're older nurses and
18 we're more experienced and we know what's going
19 on and they don't like to be questioned for
20 whatever reason. Sometimes there's been 11:36:12
21 scenarios where we've gone to Judy and talked
22 to her about that and then sometime she'll go
23 to talk to Mark Davis. Dr. Mark Davis is the
24 head of the residents. There's been scenarios
25 where, you know, they try to work things out 11:36:37

1 amongst Judy and Dr. Davis.

2 Q. Can you describe an incident where
3 Dr. Heffernan and you had an interaction that
4 related to age or where Dr. Heffernan treated
5 you any differently as a result of your age? 11:37:17

6 A. No, I didn't have a problem with
7 Dr. Heffernan. I know Lori did.

8 I've had problems with attendings
9 that are now attendings that were residents at
10 the time that they've went through and I've had 11:37:54
11 scenarios where I've had problems with some of
12 them. I don't know if you want to know about
13 that.

14 Q. We'll get to the attendings.

15 Did Dr. Huynh ever make any 11:38:09
16 comments related to yours or anyone else's age?

17 A. I don't remember the exact words,
18 but yes, he had.

19 Q. What did he say?

20 A. It was more to, oh, you older 11:38:27
21 girls. I've heard it from numerous doctors
22 there.

23 Q. Let's talk about Dr. Huynh, then
24 we'll go through all of them?

25 A. Okay. 11:38:43

1 Q. What did Dr. Huynh say?

2 A. He'd make a comment, oh, you older
3 girls, something to that effect. Oh, you older
4 nurses. It was hard for some of these
5 residents to work with us.

11:38:58

6 Q. So he made a comment, oh, you older
7 girls or, oh, you older nurses in your
8 presence?

9 A. Yes, I've heard it.

10 Q. On how many occasions?

11:39:06

11 A. I don't know. Over the four years
12 he's been a resident, the times that I've
13 worked with him. I don't know for sure.

14 Q. More than five?

15 A. I can't say. I don't know.

11:39:19

16 Q. Who else was present when he made
17 this statement, oh, you older girls?

18 A. There were other people sitting
19 there at the desk.

20 Q. Who else?

11:39:28

21 A. I don't remember.

22 Q. You don't remember anyone else who
23 was present?

24 A. No, not off the top of my head.

25 Some of these scenarios happened three or four

11:39:40

1 years ago.

2 Q. Did you complain to anyone when Dr.
3 Huynh made the statement, oh, you older girls?

4 A. No, because they'd make statements,
5 they'd make comments when some people just, ha, 11:39:50
6 ha, ha, just kind of laugh it off.

7 Q. And you didn't make any complaints
8 regarding Dr. Huynh's statement?

9 A. About the age, no. I didn't.

10 Q. How about Dr. Anagnostou, how does 11:40:02
11 Dr. Anagnostou treat older nurses differently?

12 A. I don't know if he's treating older
13 nurses differently. She's a doctor. If she's
14 got somebody that's over her, there will be a
15 scenario where somebody will question her, you 11:40:31
16 know, about the Pitocin or some kind of

17 situation and, well, Dr. Byler, that's what she
18 wants. And not me myself specifically, but I
19 know another nurse that asked her, are you
20 afraid of Dr. Byler? It's a pecking order. 11:40:51

21 They have their little pecking orders. The
22 ones that are lower on the totem pole don't
23 want to make any kind of waves, so they just go
24 along with what the year-higher resident says
25 to do. She's one of those doctors that are 11:41:12

1 very fearful of the people above her, that she
2 does whatever they tell her to do.

3 Q. In doing whatever her superiors
4 tell her to do, has she done anything to you
5 related to your age?

11:41:26

6 MR. MYERS: Objection. Go ahead
7 and answer.

8 A. No, I don't think Dr. Anagnostou
9 has.

10 Q. Has Dr. Byler ever made any
11 comments regarding yours or anyone else's age?

11:41:40

12 A. Like I've repeated before, a lot of
13 them have made comments, but I don't remember
14 the exact statements or scenarios.

15 Q. Can you remember anything, ages
16 that Dr. Byler has said?

11:42:07

17 A. No, not off the top of my head
18 right now, no.

19 Q. When you say "us older nurses," who
20 are you referring to?

11:42:28

21 A. Us girls that aren't in our 20s,
22 30s, we're more in our 40s and 50s or have been
23 doing this a long time.

24 Q. Who specifically had altercations
25 with these residents that you're talking about?

11:42:47

1 A. Who specifically has had
2 altercations? I know Lori Wykoff has. I know
3 Cindie Russell has. She was in it with
4 anesthesia at times. I think a lot of the
5 people have had blow-outs with nurses and
6 doctors. It happens quite frequently.

11:43:12

7 Q. We're talking about, just so we can
8 get back on track, your claim that residents
9 have a hard time with us older nurses. And I
10 want to know what facts you have to back up
11 that claim. So that's what we're specifically
12 talking about here.

11:43:31

13 MR. MYERS: Let her answer the
14 question.

15 MS. LAWRENCE: I think I have,
16 John.

11:43:40

17 MR. MYERS: You keep asking her the
18 same question and every time she gives you more
19 information, so if you want her to answer the
20 question, let her answer it.

11:43:46

21 A. I've heard many of the residents
22 make comments at different times about whether
23 it's you older nurses or --

24 Q. Other than Dr. Huynh, who else said
25 you older nurses?

11:44:14

1 A. I've heard comments from a lot of
2 them. But the --

3 Q. Who?

4 A. They'll be in the same
5 conversation, like they're joking about it. 11:44:26
6 Like, ha, ha, ha.

7 I think Phyllis Smelcer has made
8 comments before. Even some of the attendings
9 have made comments before. And some of the
10 older attendings come to us directly because 11:44:46
11 they know how we take care of their patients.

12 Q. Who else besides Dr. Huynh and
13 Dr. Smelcer made the comment about -- made a
14 comment about older nurses?

15 MR. MYERS: Residents now or 11:45:00
16 attendings?

17 MS. LAWRENCE: I'm talking about
18 residents.

19 A. I think they all have at times, but
20 I can't tell you specifics and scenarios. 11:45:10

21 Q. So you're telling me that every
22 single resident has --

23 A. I'm not saying every single
24 resident, but most of them.

25 Q. Most of them? 11:45:19

1 A. Yes.

2 Q. Which ones have you complained
3 about making that statement?

4 A. I really didn't complain to
5 anybody. What good is it going to do? 11:45:31

6 Q. What attending physicians do you
7 believe had a hard time with older nurses?

8 A. Dr. Shondel. I know I had a
9 problem with Dr. Ross Marchetta, when he was a
10 resident. I know we'd butt heads a few times. 11:46:22

11 I had a patient whose baby expired
12 and the unit was real busy and it was on 3 to
13 11 shift and there were only two nurses working
14 and the parents had held the baby, the baby was
15 still alive, and I remember him coming back to 11:46:42

16 the operating room, just let it lay there and
17 die, Kim, will you? We need you out here. I
18 said, nobody comes into this earth alone and
19 nobody deserves to go out of this earth alone,
20 and I didn't, and I stayed there and held that 11:46:57
21 baby until it died in my arms.

22 Q. And how did that relate to your
23 age?

24 A. It didn't. I'm just saying that at
25 times I had problems with residents that are 11:47:09

1 now attendings.

2 Q. Other than Dr. Shondel and
3 Dr. Marchetta, who else?

4 A. I can't think of anybody else at
5 the moment.

11:47:59

6 Q. What problem did you have with
7 Dr. Shondel?

8 A. A lot of times Dr. Shondel is in a
9 hurry. I see her a lot of times not giving
10 patients a fair shot at labor and she'll just
11 section them.

11:48:20

12 Q. She'll advise that they have a
13 C-section?

14 A. Uh-huh.

15 Q. And you don't agree with her
16 advice?

11:48:27

17 A. Sometimes these people are just cut
18 on and operated on for convenience and it's
19 very frustrating.

20 Q. Okay.

11:48:37

21 A. And she's one of them.

22 Q. What other problems did you have
23 with Dr. Shondel?

24 A. She just didn't seem to care for me
25 as a person.

11:49:04

1 Q. Anything else?

2 A. Not that I can think of at this
3 time.

4 Q. Other than the incident with
5 Dr. Marchetta where the baby passed away and 11:49:22
6 you stayed with it, any other issues with
7 Dr. Marchetta?

8 A. There were always times with
9 Dr. Marchetta; he was very high maintenance.

10 Q. What do you mean by that? 11:49:35

11 A. There were times when he was a
12 resident that he'd come out of the operating
13 room, and we didn't have carpet at that time,
14 and he had his bloody booties on, he'd walk all
15 over the floor. So the housekeeper had to 11:49:48
16 follow behind him and wipe up all of his blood.
17 He just thought he was a very special person.

18 There's great doctors out there.
19 We're just talking about some of the negative
20 scenarios. There are some really awesome 11:50:11
21 doctors out there. They break the mold when
22 they make them.

23 Q. What else with Dr. Marchetta?

24 A. He was very demanding, very hard to
25 work with a lot of patients -- or with a lot of 11:50:26

1 us nurses. A lot of people didn't want to take
2 his patients because they didn't want to work
3 with him.

4 Q. Who else had a hard time working
5 with him?

11:50:38

6 A. Most everybody. People who fight
7 over -- I'm not taking this patient, I'm not
8 taking this patient. Another one was Zebari
9 and Shalowitz, they didn't want to take their
10 patients. I got along with them beautifully.
11 I'd always sign up for their patients because
12 we had a great working relationship, but many
13 of the nurses would fight, I'm not taking his
14 patient.

11:50:50

15 Dr. Lavin is another one. He's a
16 perinatologist. He'll dictate in the back of
17 the OR, he'll throw things, he'll treat us
18 disrespectfully, and a lot of people don't want
19 to work with him either. Frequently nurses
20 will say, I'm not doing that delivery. I'm not
21 taking that patient.

11:50:59

11:51:24

22 Q. Did you ever complain to anyone
23 regarding Dr. Shondel?

24 A. No.

25 Q. How about Dr. Marchetta, did you

11:51:35

1 ever complain about Dr. Marchetta?

2 A. Oh, I'm sure I did. I'm sure I did
3 at times. It was probably Marilyn Fellenstein
4 back at that time. We were getting tired of
5 following him, cleaning up his dirty booties,
6 just his condescending attitudes towards us.

11:51:50

7 Q. Okay.

8 A. But Dr. Shalowitz and Dr. Zebari
9 can be demanding too, but I had a great working
10 relationship with them.

11:52:14

11 Q. You also testified earlier that you
12 complained to Judy regarding coworkers and
13 their behaviors. Who did you complain to Judy
14 about?

15 A. Frequently it was the young girls
16 that sat at the desk at the monitors and did
17 their charting at the monitors. They wouldn't
18 get up and go into the patients' rooms unless
19 they had to or their call light went on. How
20 can you assess a patient, their fundus, whether
21 it's relaxing between contractions? All the
22 monitors show -- if they're external monitors,
23 they just give you a baseline. You cannot
24 assess a patient from sitting in a chair in
25 front of monitors. And --

11:52:32

11:52:50

11:53:02

1 Q. Who were --

2 A. The frequent --

3 Q. -- the nurses that you complained
4 to Judy about?

5 A. I told her Danielle is sitting out 11:53:10
6 there, Nan is sitting out there, Barb Buchan is
7 sitting out there, Tracie sits out there a lot.
8 So after a period of time what did Judy do?
9 She went and took all the chairs away and she
10 wanted people to chart at the chart box outside 11:53:29
11 the room, or at the patient's bedside. That
12 lasted for, I don't know, a short period of
13 time. Then the chairs started coming back and
14 they're sitting again.

15 And that was my biggest complaints 11:53:40
16 to Judy about the young girls that just sat out
17 there. And sometimes you call for help,
18 sometimes somebody would get up and help you,
19 sometimes they wouldn't.

20 Q. When they were charting from the 11:53:54
21 chairs, did that relate to the patients you
22 were taking care of?

23 A. No, it was relating to the patients
24 they were taking care of, unless they were
25 covering somebody for lunch. Frequently they'd 11:54:01

1 sit out there and cover you for lunch unless
2 they had to go in the room and do something and
3 chart from out there. Maybe not even -- if we
4 were lucky to get lunch, sometimes we would get
5 15 minutes, maybe a half an hour if we were 11:54:14
6 real lucky most days. Many days we didn't get
7 lunch and a lot of times they wouldn't even
8 chart on the patient, maybe not on the
9 narrative, but on the flow sheet.

10 Q. What else did you complain to Judy 11:54:33
11 about with respect to your coworkers, other
12 than the charting from the monitors?

13 A. I complained to her about Danielle
14 Troutman, her husband was a sheriff and she was
15 over on the computer and showing some other 11:54:57
16 nurses things that she shouldn't have been
17 doing. They wanted to look up people's
18 personal things that had nothing to do with the
19 hospital. They could have done it outside of
20 there or they could have done it in the privacy 11:55:08
21 of their own home.

22 Q. What were they looking at?

23 A. Things with another nurse that's no
24 longer there and one -- two of her family
25 members were murdered. 11:55:22

1 Q. This other nurse?

2 A. Yes.

3 Q. Who was the nurse?

4 A. Paula Dodson. And her family

5 member, it was a southern -- it was in one of 11:55:32
6 the Carolinas or something.

7 Q. Were they looking on the internet?

8 A. Uh-huh.

9 Q. So they weren't looking at hospital
10 records? 11:55:42

11 A. Right. People have done that too.
12 I've seen people look at people's hospital
13 records.

14 Q. You complained --

15 A. I could go on for hours and hours 11:55:53
16 and hours and hours.

17 Q. And you complained to Judy Ezzie
18 regarding --

19 A. Danielle looking up and the other
20 people there in the unit on a Sunday looking up 11:56:02
21 other people's personal business that they had
22 no business looking up.

23 Q. Please let me finish my questions
24 before you answer.

25 A. Okay. 11:56:10

1 Q. Who was with Danielle looking up
2 things on the internet?

3 A. I think Barb Buchan was there, Nan
4 was there. These are people on my weekend.
5 Those are the two I can remember for sure. I
6 don't know, there were other people there, but
7 I don't remember for sure who was there.

11:56:24

8 Q. What else did you complain to Judy
9 about with respect to your coworkers?

10 A. I can't think of anything else at
11 this time.

11:56:44

12 Q. Do you remember when it was that
13 you complained to Judy Ezzie about Dr. Huynh?

14 A. Well, I complained right after that
15 delivery that I had and then I went and talked
16 to her about this one letter that he wrote. I
17 don't remember what period of time that was.

11:57:39

18 Q. When you say the delivery, you're
19 talking about the delivery that -- when you
20 delivered the baby on your own?

11:57:56

21 A. Correct.

22 Q. Just so we can verify these
23 records.

24 And then the other time that you
25 complained, was that when you had the

11:58:07

1 discussion with him about your brother being a
2 physician?

3 A. Right. And the Pitocin being
4 upped, yes.

5 Q. Is that the brother that lives with 11:58:16
6 you?

7 A. No.

8 Q. What's your brother's name that
9 lives with you?

10 A. Michael. 11:58:21

11 Q. How long has he lived with you?

12 A. Probably about six years now.

13 Q. Why is he living with you?

14 MR. MYERS: Objection. Bears no
15 relevance to this, but go ahead and answer. 11:58:37

16 THE WITNESS: Do I have to?

17 MR. MYERS: She can ask you if the
18 sun is shining. Yes.

19 A. He's living with me because I want
20 him to. 11:58:46

21 Q. All right. When did you complain
22 to Judy Ezzie about Dr. Byler?

23 A. I don't remember when.

24 Q. It was during the time Dr. Byler
25 was a resident? 11:59:33

1 A. Yes.

2 Q. Do you remember what year she was
3 in?

4 A. I'm sure it's been more than once,
5 and no, I don't remember what year she was. 11:59:41

6 Q. How long is a residency program?
7 Four years?

8 A. First year of internship, second
9 year resident, third year resident, fourth, and
10 then chief. 11:59:57

11 Q. Okay. So five years that you
12 consider them residents? Just for my reference
13 point.

14 A. Yeah. Yeah?

15 Q. Did you complain about Dr. Byler 12:00:12
16 when she was -- is it intern, is that what you
17 call the first year?

18 A. Uh-huh.

19 Q. Did you complain about her when she
20 was an intern? 12:00:23

21 A. No. Usually when they come as
22 interns, they're so green and so new at this
23 stuff that they watch their Ps and Qs and they
24 are usually pretty good.

25 Q. How about when she was chief, did 12:00:36

1 you complain about her then?

2 A. Yes. For the way she treated me,
3 disrespectfully, smile at your face and you
4 feel that knife going in your back on the way
5 out. Katie Wolf was like that too.

12:00:53

6 Q. Did you complain to Judy about
7 Katie Wolf?

8 A. I think I did.

9 Q. When did you complain?

10 A. I don't know.

12:01:03

11 Q. You don't remember one way or the
12 other when you did?

13 A. No, I don't remember when I did.

14 Q. Do you think you did or you know
15 you did complain to Judy about Katie Wolf?

12:01:11

16 A. Katie was another one, yes, I did.

17 Q. On how many occasions?

18 A. Less than five.

19 Q. While she was a resident?

20 A. Yes.

12:01:25

21 Q. While she was an intern?

22 A. I don't think so.

23 - - - - -

24 (Thereupon, Defendant's Deposition

25 Exhibit G was marked for purposes of 12:02:20

1 identification.)

2 - - - - -

3 Q. Handing you a document marked
4 Defendant's Exhibit G, do you recognize that
5 document?

12:02:33

6 A. I see it's the Human Resources
7 Policy and Procedure Manual, but no, I don't.

8 Q. Is that manual made available to
9 employees?

10 A. Yes, it is.

12:02:56

11 Q. Where is that at?

12 A. There used to be a manual, but I'm
13 sure it's on line now.

14 Q. When it was in manual form, where
15 was it located?

12:03:05

16 A. Somewhere on the unit on a counter
17 somewhere.

18 Q. On the nursing unit?

19 A. Uh-huh.

20 Q. Now it's on line, correct?

12:03:13

21 A. As far as I'm aware. Most all the
22 policies and procedures they put on line.

23 Q. You had access to them when you
24 were employed at Akron General?

25 A. Yes.

12:03:26

1 Q. You were provided training on the
2 EEO policy, correct?

3 A. We all had to look at some of the
4 policies and procedures.

5 Q. On an annual basis, correct? 12:03:41

6 A. That was different every year.
7 They'd have different things that were
8 mandatory every year.

9 Q. But you participated in training on
10 an annual basis? 12:03:52

11 A. Right. Whatever was required for
12 me to do, I did.

13 - - - - -
14 (Thereupon, Defendant's Deposition
15 Exhibit H was marked for purposes of 12:04:21
16 identification.)

17 - - - - -
18 Q. Handing you a document that's
19 marked as Exhibit H, it's a four-page document,
20 can you identify Exhibit H? 12:04:38

21 A. Yes. These are all part of that
22 yearly mandates that we'd have to do.

23 Q. Part of your yearly training?

24 A. Uh-huh.

25 Q. If you look at the first page, 12:04:56

1 which is Bates stamped 328, it says, "Akron
2 General Health System code of conduct
3 acknowledgment," correct?

4 A. Correct.

5 Q. It says, "I have read and I 12:05:05

6 understand the code of conduct and acknowledge
7 my responsibility to act accordingly."

8 Correct?

9 A. Correct.

10 Q. "I've had the opportunity to ask 12:05:14

11 questions and/or know whom to contact should I
12 have any questions in the future regarding this
13 information," correct?

14 A. Correct.

15 Q. Is that your signature at the 12:05:24
16 employee signature line?

17 A. Correct.

18 Q. Had you read and understood the
19 code of conduct --

20 A. Yes, I did. 12:05:29

21 Q. -- that's dated 2003?

22 A. Correct.

23 Q. Next page is Bates labeled 326. Do
24 you see where I am?

25 A. Uh-huh. 12:05:43

1 Q. Same sort of language at the top
2 regarding your understanding and reading of the
3 code of conduct, correct?

4 A. Correct.

5 Q. And is that your signature? 12:05:52

6 A. Yes, it is.

7 Q. The next page is Bates labeled 322?

8 A. Uh-huh.

9 Q. Is that your signature there?

10 A. Yes. 12:06:02

11 Q. And the same language there saying
12 that you read and understood it, the code of
13 conduct, and understood your responsibilities
14 under it?

15 A. Yes. 12:06:11

16 Q. And had you read and understood it?

17 A. Yes.

18 Q. And you knew where to ask questions
19 if you had any?

20 A. Yes. 12:06:18

21 Q. Did you ask any questions regarding
22 the code of conduct at any time during your
23 employment?

24 A. I don't know if I would say that. I
25 asked questions, but there were times that 12:06:29

1 everybody in that unit didn't abide by codes of
2 conduct.

3 Q. Okay. That's not my question.

4 A. Okay.

5 Q. This here says, "I have had the 12:06:40
6 opportunity to ask questions and/or know whom
7 to contact should I have any questions." When
8 you reviewed the code of conduct, did you have
9 any questions that you needed to ask?

10 A. No. 12:06:51

11 Q. The final page is Bates labeled
12 313. That's also a code of conduct
13 acknowledgment, correct?

14 A. Correct.

15 Q. It has the same language regarding 12:07:05
16 acknowledging your responsibilities under it
17 and having read it and understood it, correct?

18 A. Correct.

19 Q. Knowing what to do if you have any
20 questions, right? 12:07:14

21 A. Correct.

22 Q. I know that your employment -- you
23 were employed for a long time at Akron General.
24 I want to talk about who you reported to. So
25 let's start with Judy Ezzie and kind of work 12:07:38

1 backwards and who you reported to and roughly
2 the years that you reported to them.

3 A. Okay.

4 Q. We'll start with Judy Ezzie. When
5 did you begin reporting to Judy Ezzie?

12:07:51

6 A. Whenever she started in labor and
7 delivery.

8 Q. Okay.

9 A. I don't know what time that was.

10 Q. I believe it was roughly 2006. Do
11 you have any reason to dispute that?

12:07:58

12 A. I thought it was a little longer,
13 but if you say 2006, it's 2006.

14 Q. I could be wrong. Do you remember
15 when you started reporting to her?

12:08:14

16 A. No.

17 Q. And you reported to her through the
18 end of your employment?

19 A. Correct.

20 Q. Who did you report to prior to Judy
21 Ezzie?

12:08:21

22 A. That would have been Marilyn
23 Fellenstein.

24 Q. How long did you report to Ms.
25 Fellenstein?

12:08:29

1 A. I'm not sure.

2 Q. Approximately?

3 A. Probably eight, nine years,
4 somewhere in there. Until she was terminated.

5 Q. Who did you report to prior to Miss 12:08:43
6 Fellenstein?

7 A. That would have been Jane Ragozine.

8 Q. How long did you report to Ms.
9 Ragozine?

10 A. I'm not sure. 12:09:04

11 Q. Approximately how long did you
12 report to her?

13 A. Maybe five years.

14 Q. Was there an interim director
15 in-between Ms. Fellenstein and Ms. Ezzie? 12:09:15

16 A. There might have been. I'm not
17 sure. Judy used to be head nurse of 2400 then
18 she came to labor and delivery.

19 Q. Not that you can recall?

20 A. No. 12:09:32

21 Q. Who did you report to prior to Ms.
22 Ragozine?

23 A. That would have been Jane Watson.

24 Q. How long did you report to Ms.
25 Watson? 12:09:40

1 A. From the time I started until she
2 was -- she stepped down and Jane Ragozine took
3 over. She was there then Jane came back,
4 worked in our unit as a staff nurse.

5 Q. After she finished working as your 12:10:03
6 supervisor?

7 A. She stepped down as the head nurse
8 and became a staff nurse.

9 Q. So for the purposes of clarity, can
10 we call your supervisor the head nurse; is that 12:10:15
11 what you call them --

12 A. That's what we used to, then
13 clinical director. They just come up with
14 these names.

15 Q. It's essentially the same position? 12:10:28

16 A. Correct.

17 Q. Did you enjoy working for Ms.
18 Watson?

19 A. Did I enjoy working for Ms. Watson,
20 for the most part, yes, but I had a scenario, a 12:10:45
21 bad scenario with her and I had hard feelings
22 afterward.

23 Q. What happened?

24 A. I'm an adoptive mother. Being an
25 adoptive mother, I went through a private 12:11:03

1 adoption and the patient ended up coming
2 through Akron General and Jane Watson almost
3 cost me not becoming a mother. She went into
4 the patient's room and said to her, next time
5 you make this count.

12:11:21

6 Q. What did she mean by that?

7 A. Next time come back and keep your
8 baby, make it count.

9 Q. How did you learn about that?

10 A. How did I learn about it? The
11 attending doctor who delivered her, one of the
12 other nurses who worked there at that period of
13 time worked there and told me about it.

12:11:37

14 Q. When was your daughter born?

15 A. April 15th of 87.

12:11:48

16 Q. Did you complain to anyone
17 regarding that comment?

18 A. No. I wanted to keep my job.

19 Q. Did you think that Ms. Watson was
20 fair to her employees?

12:12:06

21 A. Somewhat, but she had her
22 favorites.

23 Q. Were you one of her favorites?

24 A. No.

25 Q. Do you think that she harbored any

12:12:27

Kimberly J. Belzer

93

1 ill will toward you or was out to get you in
2 any way?

3 A. Well, the scenario with my daughter
4 certainly didn't help matters any. That's for
5 sure. I think that was very inappropriate, her 12:12:42
6 to go into her biological mother's room and
7 make that kind of statement to her. I was
8 supposed to work that day --

9 Q. But you didn't raise the issue with
10 anyone in management, correct? 12:13:02

11 A. No. I think the physician that
12 delivered her did. I think they had words.

13 Q. That physician was who?

14 A. Dr. Mary Kaforey.

15 Q. Were you present when they had 12:13:17
16 words?

17 A. No.

18 Q. Describe your relationship with Ms.
19 Ragozine?

20 A. I had a great relationship with 12:13:28
21 Jane Ragozine. She's a wonderful person and a
22 good nurse manager and she's now a nurse
23 practitioner.

24 Q. Did you think that she was fair to
25 her employees? 12:13:44

1 A. Yes, I do.

2 Q. How about Miss Fellenstein,
3 describe your relationship with her.

A. Marilyn was fair at times, but I
didn't feel that Marilyn cared for me,
especially with the scenario with me being
given a pink slip and she couldn't give me the
decency of a phone call, a letter, anything.
Then I had to go to p.m.'s. I thought that was
very wrong on her part. Certain people will
give people advance notices and such and I felt
like I was being treated very unfairly over
that.

12:14:02

12:14:25

14 Q. When you say given the pink slip,
15 are you talking about the scenario where you 12:14:44
16 went out for surgery and came back and your job
17 had been eliminated?

18 A. Right, because it was three days
19 after that -- it was a three-month period of
20 time. I think I said to you earlier 30 days, 12:14:54
21 it was three days over the three-month period
22 of time that we had to come back and since then
23 they had changed the contract because of me
24 over that. They now have to notify people to
25 send them a certified letter, phone call, 12:15:10

1 something, let them know that they're, you
2 know, getting towards the period of time that
3 they may lose their job.

4 Q. You said that Ms. Fellenstein was
5 fair at times, but that pink slip situation 12:15:25
6 bothered you, correct?

7 A. Yes. And another situation with
8 Marilyn Fellenstein, she was terminated. She
9 was tapping our phones at work and sent out a
10 note after the fact, sorry for any 12:15:45
11 inconvenience or bad feelings that people had.
12 And she was tapping the phones because
13 supposedly the doctors were complaining that
14 they tried to call and they couldn't get
15 through. A lot of nurses take personal phone 12:16:00
16 calls at work, but that's the same time Debbie
17 Burkey left also, which was the VP of nursing.

18 Q. Did you think that Ms. Fellenstein
19 had any ill will toward you?

20 A. I didn't feel comfortable with her. 12:16:23

21 Q. Why?

22 A. I just didn't feel that she cared
23 for me.

24 Q. Was it related to your age?

25 A. I can't say for sure what it was 12:16:33

1 related to.

2 Q. Any other incidents with Miss
3 Fellenstein?

4 A. Not that I can think of right now.

5 Q. Let's talk about Judy Ezzie. 12:17:08

6 A. Okay.

7 Q. Describe your relationship with
8 Judy Ezzie.

9 A. I basically -- when Judy first
10 started, I thought she was one of the best head 12:17:20
11 nurses I ever had. And then there was a period
12 of time, and I don't know all the politics, we
13 never do know all the politics involved, but
14 there was a period of time when Dana Nelson
15 left and they were going to terminate Judy or 12:17:43
16 asked her to step down. Something happened.

17 And that's when Diane Janish was the
18 vice-president of nursing and she came around
19 the unit and talked to all of us nurses about
20 how we felt about Judy and I remember sticking 12:17:58
21 up for Judy and saying that she's a good head
22 nurse --

23 Q. Approximately when was this?

24 A. I don't know. Probably about two,
25 three years ago. 12:18:12

1 Q. Okay.

2 A. And we did state some of our
3 complaints with Judy with the people sitting
4 out at the unit and some people being charge
5 nurse and their licenses aren't in jeopardy
6 where other people's licenses are, and those
7 kind of things. We had heard that Judy was
8 going to leave, but she ended up staying. So I
9 don't know all the politics involved with that.

12:18:24

10 Q. When Judy first started, you got
11 along with her.

12:18:43

12 A. Yes.

13 Q. Did you enjoy working for her
14 throughout the time that you were working for
15 her?

12:18:50

16 A. No, I didn't. Towards the last 25
17 plus years, always had good or satisfactory
18 evaluation and then the last three months just
19 things started happening. It's like I'm
20 getting written up left and right; I'm walking
21 on pins and needles. I would be staying in my
22 patient's room, taking care of them, staying
23 away from all of the politics and hullabaloo at
24 the desk and the residents, but every time I
25 turned around I was getting written up for

12:19:10

12:19:27

1 something. I remember even telling Judy, Judy,
2 you know, I'm really sorry if you feel I've
3 disappointed you.

4 Q. Why did you say that?

5 A. Why? Because I'm getting all these 12:19:39
6 write-ups and it made me feel that she wouldn't
7 have been writing me up if she wasn't
8 disappointed or upset. She wouldn't have
9 terminated me. All of a sudden something
10 happened, she was out for me. 12:19:57

11 MS. LAWRENCE: I'm going to take
12 quick break.

13 (Recess had.)

14 - - - - -

15 (Thereupon, Defendant's Deposition
16 Exhibit I was marked for purposes of
17 identification.)

18 - - - - -

19 Q. Handing you a document that's been
20 marked Defendant's Exhibit I, can you identify 12:27:01
21 that document, please?

22 A. Yes, it's one of my performance
23 reviews from Jane Ragozine in January of 1990.

24 Q. And is that your signature on the
25 bottom? 12:27:19

Kimberly J. Belzer

99

1 A. Yes, it is.

2 Q. You probably may not recall that
3 far back, but would you have signed this after
4 reviewing this; is that how the procedure went?

5 A. Yes.

12:27:31

6 Q. And in the recommended improvements
7 box on the right it says, number 1, "Improve
8 relationships with patients and staff.
9 Sometimes comes across harsh." Correct?

10 A. That's what it says.

12:27:44

11 Q. Number 3, "Relax. Tends to become
12 impatient with a busy board."

13 A. That's what it says.

14 Q. Those are recommended improvements
15 from Jane Ragozine?

12:28:01

16 A. Correct.

17 - - - - -

18 (Thereupon, Defendant's Deposition
19 Exhibit J was marked for purposes of
20 identification.)

21 - - - - -

22 Q. Directing your attention to a
23 document marked Defendant's Exhibit J, after
24 you've had an opportunity to review it, can you
25 please identify Exhibit J?

12:28:30

100

1 A. Exhibit J?

2 Q. Yes.

3 A. Okay. This is my performance
4 review.

5 Q. It looks like Exhibit J, the way 12:28:55
6 that I have it, is two separate performance
7 reviews. This might be a mistake.

8 On page 2, which is Bates stamp
9 410, there's a signature, correct?

10 A. Correct. 12:29:26

11 Q. That's dated 1992?

12 A. Correct.

13 Q. And then on the last page there's
14 another signature and that's dated 1991,
15 correct?

12:29:38

16 A. What was the question?

17 Q. The last page of the document
18 there's another signature page?

19 A. Correct.

20 Q. And that's dated 1991, correct? 12:29:49

21 A. Looks like it's the same thing. I
22 think there's two copies of the same evaluation
23 here.

24 Q. Okay. Let's look at the last page
25 then.

12:30:10

1 A. They're both the same, 416 --

2 Q. The final page 416. That's my
3 mistake on the copying. I apologize.

4 A. If that's the worst you do, you've
5 got it made in the shade. 12:30:26

6 Q. And Jane Ragozine's signature is on
7 the bottom, right?

8 A. Correct.

9 Q. Your signature does not appear on
10 here. Do you know why? 12:30:37

11 A. No, I don't.

12 MR. MYERS: It's on page 2 of the
13 exhibit. They're identical pages without a
14 signature, signed in 92.

15 MS. VAN DUSER: I'm guessing Jane 12:30:56
16 Ragozine sent the first one through without a
17 signature. Wasn't that around the time she had
18 her twins?

19 THE WITNESS: Probably. Whatever.

20 Q. Then because your signature is on 12:31:06
21 the first page, let's look at that.

22 MS. VAN DUSER: I think she
23 probably did them earlier before she went out,
24 then someone else must have served them, is my
25 guess. 12:31:17

1 **THE WITNESS:** I think that was a
2 good possibility.

3 Q. Then it says next level signature,
4 do you recognize that signature?

5 A. That's not Norma Thoman, is it? 12:31:24
6 That's Norma Thoman's. Pretty good. Not too
7 shabby there.

8 Q. And in this supervisor's comments
9 she's talking about a lot of stress that you've
10 experienced in the past year? 12:31:46

11 **A.** Uh-huh.

12 Q. And that the staff has been most
13 supportive. Do you see where I'm referring?

14 A. "Kim has experienced a lot of
15 stress this year in her personal life as well 12:31:57
16 as illness, more than most in a given year.
17 The staff has been most supportive. There are
18 other avenues for her to explore if she
19 desires." Yes, I see it.

20 Q. Then it says CARES, C A R E S? 12:32:12

21 A. Yes.

22 Q. What is CARES?

23 A. It's like a program that if you
24 want to go talk to a counselor or somebody,
25 they offer you that program. 12:32:20

1 Q. So she was suggesting that you go
2 to that if you needed it?

3 A. She was just giving me that option
4 if I so wanted it.

5 Q. Then on number 6 of the supervisors 12:32:35
6 comments, she says that you don't seem to enjoy
7 your job. You complain frequently and appear
8 stressed and tired. Do you see that?

9 A. Yes, I do.

10 Q. Did you do anything to improve your 12:32:49
11 attitude after receiving this performance
12 evaluation?

13 MR. MYERS: Objection. Go ahead
14 and answer.

15 A. I went to see a counselor. My 12:33:07
16 mother was dying of breast cancer and my
17 husband left after 17 years of marriage and I
18 had a five year old by myself. And I was
19 exposed to an HIV positive person that I got
20 her urine, and one of my cuts -- I had rubber 12:33:23
21 gloves on and I went to take the rubber gloves
22 off and a drop of the urine was there, it went
23 in the cut. Yeah, it was quite a stressful
24 year. I was taking care of my mother all by
25 myself. 12:33:39

1 Q. Okay.

2 A. So I went to -- I don't know if I
3 went to see a counselor at that period of time
4 or not. I can't say for sure.

5 Q. Okay.

12:33:50

6 A. Because that was 92. When did
7 my -- okay.

8 - - - - -

9 (Thereupon, Defendant's Deposition
10 Exhibit K was marked for purposes of 12:34:13
11 identification.)

12 - - - - -

13 Q. Placing a document in front of you
14 that's marked as Defendant's Exhibit K, once
15 you have an opportunity to review that 12:34:24
16 document, can you please identify it?

17 A. It's a performance evaluation for
18 95.

19 Q. On the last page of that document,
20 is that your signature on the last page? 12:34:48

21 A. Correct.

22 Q. Signature below that, who is that?

23 A. Marilyn Fellenstein.

24 Q. Was she your supervisor at the
25 time?

12:34:56

1 A. Yes.

2 Q. Now, there's a series of numerical
3 rankings on this form. At the top there's a
4 key. It looks like, 1, needs major
5 improvement, 2 means needs improvement, 3,
6 meets job requirements, 4, exceeds job
7 requirements, 5, greatly exceeds job
8 requirements. Do you see where I'm referring?

12:35:14

9 A. Uh-huh.

10 Q. Turn to the second page, which is
11 Bates label 398, please. Section E, patient
12 care activities, are you there?

12:35:26

13 A. Yes, I am.

14 Q. Number 2 is "Demonstrates
15 flexibility in providing care as individual
16 patient care needs change." You were ranked a
17 2.5 there, correct?

12:35:40

18 A. Correct.

19 Q. Number 4, "Collaborates with other
20 healthcare team members to coordinate medical
21 and nursing management of patient care." You
22 were ranked a 2 there, correct?

12:35:51

23 A. Correct.

24 Q. Number 6 -- and 2 means needs
25 improvement, correct?

12:36:06

1 A. Correct.

2 Q. And number 6 which is on page 399
3 of section E, "Establishes effective
4 interpersonal relationships that are indicative
5 of customer service philosophy and caring
6 standards of practice with patients' family and
7 other healthcare team members/employees." You
8 were ranked a 2.5 there, right?

12:36:25

9 A. Correct.

10 Q. On the next page, "Bates labeled
11 400, Demonstrates professional behavior that
12 reflects positively upon the medical center"
13 and then it's "Consistent with customer service
14 philosophy and caring standards of practice."
15 You were ranked a 2.5 there, correct?

12:36:38

12:36:52

16 A. Correct.

17 Q. And you did not receive any 4 or 5
18 rankings on this performance evaluation,
19 correct?

20 A. They don't give out 4s or 5s.

12:37:09

21 Q. You didn't receive any 4s or 5s on
22 this?

23 A. I didn't. I don't think I know
24 anybody else has in my unit. They don't give
25 out 4s or 5s.

12:37:21

1 Q. Okay. Recommended improvements on
2 page Bates label 401, number 3, tells you to
3 "Continue to improve on interpersonal skills
4 particularly with members of other
5 disciplines," correct?

12:37:37

6 A. Correct.

7 Q. And it also says, number 4, "Raise
8 awareness of effect of personal life issues on
9 work performance and work setting
10 relationships." Correct?

12:37:48

11 A. That's what it says.

12 Q. What did you take that to mean?

13 A. I took that to mean -- let's see,
14 what year was this again? I took that to mean
15 that Marilyn must have felt that some of my
16 personal -- something personal in my life was
17 interfering with my work performance or
18 work-setting relationships.

12:38:07

19 Q. Okay. Then there's a developmental
20 plan below that. Do you see where I'm
21 referring still on page 401?

12:38:30

22 A. Yes.

23 Q. Number 3 suggests that you
24 "Maintain support system for personal issues so
25 that these do not impact work performance and

12:38:40

1 professional interactions with patients and
2 families." Correct?

3 A. Yes.

4 Q. Then it says at number 4, the
5 director is going to -- "Director to assist
6 with above plan as needed." Right?

12:38:51

7 A. Right. She said I could come talk
8 to her whenever I wanted.

9 Q. Did you take her up on that?

10 A. Oh, there were times I would talk
11 to Marilyn, sure.

12:39:02

12 We're not going to talk about the
13 other page here?

14 MR. MYERS: She gets to ask the
15 questions. Your job is to do the rest.

12:39:27

16 - - - - -

17 (Thereupon, Defendant's Deposition
18 Exhibit L was marked for purposes of
19 identification.)

20 - - - - -

12:39:58

21 Q. Handing you what's been marked
22 Defendant's Exhibit L, please take a minute to
23 review Exhibit L and when you're finished,
24 please identify it.

25 A. It's the review performance

12:40:47

1 evaluation for 97.

2 Q. Turning to the last page, which is
3 Bates labeled 384, is that your signature?

4 A. Yes, it is.

5 Q. Also Marilyn Fellenstein below it? 12:41:07

6 A. Correct.

7 Q. So she was your supervisor at that
8 time?

9 A. Correct.

10 Q. Directing your attention to the 12:41:13

11 second last page, recommended improvements
12 section, she told you that you need to work on
13 allowing personal issues to affect work

14 performance and interpersonal relationships in
15 the workplace. "Kim at times finds it 12:41:32
16 difficult to do this." Did you see where I'm
17 referring?

18 A. I see it.

19 Q. Do you recall receiving this
20 evaluation? 12:41:43

21 A. I signed it; I received it.

22 Q. On the development plan section,
23 which is below the recommended improvements on
24 page 383, number 2, "Identify with
25 director/clinical matter personal issues or 12:42:00

1 social dynamics in the unit which may interfere
2 with successful performance on a given day."

3 Correct?

4 A. That's what it says.

5 Q. Then the supervisor's comment 12:42:12

6 section on the next page, 384, in the middle of
7 the page she tells you that "Kim's
8 interpersonal style is often not well received
9 by others. However, Kim makes every effort to
10 communicate effectively. The manner in which 12:42:34
11 she may be perceived by others is often a
12 result of the group norm in the unit.

13 Nevertheless, Kim should continue to explore
14 strategies for interacting with any group of
15 peers on a given day so that patient care 12:42:53
16 proceeds smoothly and so she can be effective
17 when assigned the charge nurse role." Do you
18 see where I'm referring to?

19 A. Yes, I do.

20 Q. Then there's a section for employee 12:43:06
21 comments, correct?

22 A. Uh-huh.

23 Q. You did not make any comments?

24 A. There's none there, so I didn't
25 make any comments. 12:43:17

1 Q. Did you agree with this assessment
2 of you?

3 A. What, because I didn't make any
4 comments? No. I'm looking at the rest of the
5 statement that says, "Thank you, Kim, for your
6 caring and hard work this past year" and some
7 of the positive things, instead of looking at
8 negative things.

12:43:33

9 Q. So you decided not to consider the
10 constructive part of it?

12:43:45

11 MR. MYERS: Objection.

12 A. No, I consider all of it, but --

13 MR. MYERS: She gets to ask the
14 questions she wants. She can ask whatever she
15 wants. She doesn't have to ask about the good,
16 the bad, the ugly. Whatever she wants. The
17 document speaks for itself. Just so you know
18 that, Kim.

12:43:56

19 THE WITNESS: Yes.

20 Q. Did you do anything at that time to
21 improve your interpersonal style?

12:44:05

22 A. I don't know what you mean.

23 Q. In the document your supervisor is
24 telling you your interpersonal style is not
25 well received by others. Did you do anything

12:44:29

1 to improve that after you received the
2 evaluation?

3 A. Not that I'm aware of.

4 - - - - -

5 (Thereupon, Defendant's Deposition
6 Exhibit M was marked for purposes of
7 identification.)

8 - - - - -

9 Q. Handing you a document which has
10 been marked Defendant's Exhibit M, please take 12:45:04
11 a moment to review it and when you're finished
12 reviewing it, please identify it.

13 A. Performance review from 98.

14 Q. Turning to the last page, which is
15 Bates labeled 374, is that your signature on 12:46:00
16 the bottom?

17 A. Yes, it is.

18 Q. Then supervisor's comments -- I'm
19 sorry, let me back up.

20 Marilyn Fellenstein's signature is 12:46:23
21 below your signature?

22 A. Correct.

23 Q. Would that indicate she's your
24 supervisor at that time?

25 A. Correct. 12:46:31

1 Q. In the supervisor's comments about
2 two-thirds of the way down, she says, "Kim has
3 the potential for achieving higher performance
4 scores than these documented in this
5 evaluation. She's encouraged to work 12:46:44
6 constructively with the director and clinical
7 manager to improve performance related to
8 communication, work assignment and role as
9 resource nurse to less experienced staff
10 members." Do you see where I'm referring? 12:46:58

12 Q. Did you work with the director and
13 clinical manager to improve your performance
14 related to communication, work assignment or
15 your role as a resource nurse after you 12:47:10
16 received this evaluation?

20 Q. So the answer is no? 12:47:26

23 MS. LAWRENCE: Can you read back
24 the question.

Rennillo Deposition & Discovery

1 A. If there were any communication or
2 issues, I would talk to my head nurse about it.
3 I don't remember any other issues after this
4 evaluation.

5 Q. Then there's an employee's comment 12:48:09
6 section?

7 A. Uh-huh.

8 Q. This is your handwriting?

9 A. Yes, it is.

10 Q. "Hopefully the rest of the year 12:48:16
11 will allow my positive attributes to shine and
12 will be an asset to this unit," correct?

13 A. Correct.

14 Q. Why did you put that there?

15 A. As it states up further, it says, 12:48:24
16 "Kim has had a challenging year both personally
17 and professionally." This was the year that my
18 48 year old brother died of stomach cancer and
19 I took care of him by myself.

20 Q. Okay. So that was what you were 12:48:43
21 referring to in the employee comments section?

22 A. Correct.

23 - - - - -

24 (Thereupon, Defendant's Deposition

25 Exhibit N was marked for purposes of 12:49:03

1 identification.)

2 - - - - -

3 Q. Handing you a document marked
4 Exhibit N, could you please review Exhibit N
5 and when you're finished, identify it, please. 12:49:37

6 A. Performance review employee
7 evaluation of 99.

8 Q. Turning your attention to the
9 second to last page, which is numbers 363, is
10 that your signature on 363? 12:50:22

11 A. Yes, it is.

12 Q. That's Marilyn Fellenstein's below
13 it, correct?

14 A. Correct.

15 Q. That would indicate that she's your 12:50:29
16 supervisor at that time, correct?

17 A. Correct.

18 Q. And in the supervisor comments of
19 this review, Miss Fellenstein says that you're
20 continuing to work on communications, 12:50:42
21 particularly nurse/patient communications,
22 right? Do you see where I'm referring?

23 A. Correct.

24 Q. And the last sentence she says,
25 "Overall Kim appears to be connecting better, 12:50:59

1 to use Kim's words, between her personal and
2 professional issues." What did she mean by
3 that?

4 MR. MYERS: Objection. Go ahead
5 and answer.

12:51:30

6 A. I don't know. We were sitting
7 there having a conversation. I don't know what
8 part of the conversation this came from.

9 Q. Okay. And you had the opportunity
10 to provide comments on that page as well,
11 right?

12:51:42

12 A. Correct.

13 Q. You said you were pleased with your
14 overall improved evaluation and plan on
15 continuing improvement. Right?

12:51:51

16 A. I always try to do better.

17 Q. Sure.

18 A. That's what we all should do.

19 Q. And so you believed that this
20 evaluation was an improvement from the year
21 before, right?

12:52:02

22 A. If Marilyn says it's an
23 improvement, I guess it's an improvement. I
24 try to better myself every day on what I do.

25 Q. When you reported to the head nurse 12:52:12

1 or the director, although that term is used
2 interchangeably, correct?

3 A. Correct.

4 Q. Who does the head nurse or director
5 report to, do you know?

12:52:37

6 A. VP of nursing.

7 Q. Who does the VP of nursing report
8 to?

9 A. Somebody above her, but I don't
10 know her title. They change titles all the
11 time, give somebody a new name.

12:53:13

12 - - - - -

13 (Thereupon, Defendant's Deposition
14 Exhibit O was marked for purposes of
15 identification.)

16 - - - - -

17 Q. Handing you a document that's been
18 marked Defendant's Exhibit O, please review
19 Exhibit O and when you're finished reviewing
20 it, identify it.

12:54:02

21 A. Evaluation of performance from 01.

22 Q. Again, Marilyn -- turning to the
23 last page, that's your signature on the last
24 page?

25 A. Correct.

12:54:35

1 Q. And Marilyn Fellenstein signs as
2 your supervisor?

3 A. Correct.

4 Q. On the second to last page,
5 recommended improvements, she writes, 12:54:50
6 "Establish balance in relationships with peers,
7 other staff members, patients and families,
8 specifically in how concern and caring are
9 actualized and extended to others." Do you see
10 where she wrote that? 12:55:11

11 A. Yes.

12 Q. Then she writes --

13 A. Oh, okay.

14 Q. "Listen more, use dialogue less,
15 during the assessment of patient/family 12:55:25
16 situations and unit operational situations in
17 which you are involved." Do you see where
18 she's written that?

19 A. Yes.

20 Q. "Elicit feedback" -- I'm sorry, 12:55:36
21 developmental plan, which is the next section,
22 "Elicit feedback from peers on personal
23 reaction and response to unit situations." Do
24 you see that?

25 A. Yes. 12:55:46

1 Q. What did she mean by that? What
2 did you interpret that to mean?

3 A. Talk to some of my peers about if
4 there's any kind of situations about how we all
5 respond and interact with each other. She's
6 encouraging me to give feedback. I'm sure she
7 probably wrote this on other people's
8 evaluations also.

12:56:06

9 Q. Let's talk specifically about your
10 evaluation. She's telling you to "Elicit
11 feedback from peers on personal reaction in
12 response." Did you take that to mean your
13 reaction or other people's reaction?

12:56:20

14 A. I think it could be both.

15 Q. Okay. Next page, supervisor's
16 comments, "Kim has an excellent opportunity to
17 increase her effectiveness, both as a direct
18 care provider of nursing services and a unit
19 coordinator, by taking more time to observe,
20 listen, and analyze situations and by asking
21 the questions how are my behaviors and verbal
22 interactions perceived by others." Do you see
23 where she wrote that?

12:56:33

12:56:49

24 A. Yes, I do.

25 Q. Do you recall receiving this

12:57:01

Kimberly J. Belzer

120

1 evaluation?

2 A. Yes, I do.

3 Q. You provided comments as well,

4 correct?

5 A. Yes, I did.

12:57:08

6 Q. And what, if anything, did you do
7 to increase your effectiveness, analyze
8 situations or ask how your communications were
9 being perceived by others?

10 A. Asked people their thoughts and
11 listened to what they had to say.

12:57:29

12 Q. Anything else?

13 A. Not that I can think of.

14 - - - - -

15 (Thereupon, Defendant's Deposition
16 Exhibit P was marked for purposes of
17 identification.)

18 - - - - -

19 Q. Handing you a document that's been
20 marked Defendant's Exhibit P, can you please
21 review Exhibit P and when you're finished
22 identify it?

12:58:27

23 A. Evaluation for 03.

24 Q. Second to last page, is that your
25 signature?

13:00:53

1 A. Yes, it is.

2 Q. And that's Miss Fellenstein's
3 signature below it, correct?

4 MR. MYERS: Third to last page.

5 A. Third to last page? 13:01:10

6 Q. Okay. Third to last page. I
7 apologize. On the second to last page, which
8 is Belzer 163, directing your attention there,
9 Ms. Fellenstein writes that you should work on
10 individualizing your approach to patient care 13:01:47
11 by listening and analyzing what's going on in
12 patient setting. Then she says, "Kim's
13 communication and interpersonal style sometimes
14 diminishes her effectiveness. Her high level
15 of experience and understanding of the 13:02:01
16 childbirth process is often not appreciated by
17 peers and coworkers because of this. Kim is
18 advised to work on listening skills and
19 increasing the use of reflective techniques
20 when she's working with patients and families." 13:02:11
21 Correct?

22 A. Yes.

23 Q. That was under Miss Fellenstein,
24 correct?

25 A. Correct. 13:02:17

1 Q. And then you had the opportunity to
2 provide comments. And you did, right?

3 A. Yes, I did.

4 Q. You would agree with me that based
5 on these evaluations, you were given a lot of 13:02:36
6 indications that you needed to work on your
7 interpersonal skills with patients, staff and
8 coworkers, correct?

9 A. I received that and I feel there
10 were probably many others that received that 13:02:52
11 too. We all can improve on our interpersonal
12 skills and our communications.

13 Q. So you would agree with me that
14 this was something that is present in a lot of
15 your evaluations over the years, correct? 13:03:07

16 A. It's been there, yes. But I think
17 it's probably a standardized thing that they
18 use.

19 Q. Did you ever raise any objections
20 to this feedback related to your interpersonal 13:03:19
21 communications?

22 MR. MYERS: Objection.

23 A. Only what I wrote on my employee
24 comments.

25 Q. So other than what was written in 13:03:30

123

1 the employee comments, did you ever make any
2 other complaints about this feedback that you
3 needed to improve your interpersonal
4 communications?

5 A. No, I didn't.

13:03:39

6 Q. Did you believe that this feedback
7 was related to your age?

8 MR. MYERS: Objection. Go ahead
9 and answer.

10 A. I basically feel that some of these
11 comments were generic for a lot of other
12 people, but I also think that sometimes
13 people -- rephrase that question, please. Will
14 you restate the question, please?

13:03:53

15 Q. Did you think that your
16 supervisor's comments in your evaluations that
17 we just reviewed related to your need to
18 improve intercommunications with staff, family
19 members, and patients, was related to your age?

13:04:19

20 MR. MYERS: Object. You can go
21 ahead and answer.

13:04:36

22 A. Could have been related to my age.
23 Could not. I don't know.

24 Q. Do you believe one way or the
25 other?

13:05:12

1 A. I'm not real sure.

2 Q. Okay. Do you believe that the
3 comments from your supervisors related to your
4 interpersonal communications and your need to
5 improve was related to a disability that you
6 claim to have had?

13:05:26

7 MR. MYERS: Objection. Go ahead
8 and answer.

9 A. I don't know what kind of
10 disability you're referring to.

13:05:35

11 Q. Do you believe that the comments
12 that you need to improve your interpersonal
13 skills -- strike that.

14 Do you believe that the supervisor
15 comments related to your need to improve your
16 interpersonal skills had anything to do with
17 any medical condition that you have or claim to
18 have?

13:05:47

19 MR. MYERS: Objection. Go ahead
20 and answer.

13:05:58

21 A. No, I don't think it has to do with
22 any -- I don't have a medical condition that
23 would require me -- I don't know what you're
24 trying to get at.

25 Q. I want to make sure that you

13:06:11

8 Q. Let me stop you. Let's focus on
9 the evaluations that we just went over. We

1 evaluations had anything to do with any medical
2 condition that you have?

3 MR. MYERS: Objection. Go ahead
4 and answer.

5 A. I don't have a medical condition, 13:07:12
6 but I feel that some of the people that I have
7 worked with and I've heard comments that some
8 people thought that I was bipolar.

9 Q. I certainly want to talk about
10 that. I'm asking you does that relate in any 13:07:30
11 way to the evaluations that we just talked
12 about?

13 A. They might have gone in and talked
14 to her and she decided to put these in the
15 evaluations. Maybe they thought I was bipolar. 13:07:38
16 I don't know.

17 Q. Did Miss Fellenstein ever give you
18 any indication that she thought you were
19 bipolar?

20 A. Nobody ever gave any direct 13:07:48
21 indications that they thought I was bipolar,
22 especially my management. But it makes you
23 think they think I've got issues or problems.
24 I don't know if some people can't appreciate or
25 can't understand the way that I communicate. I 13:08:04

1 don't know whether sometimes if it's my tone,
2 my flexion of voice, anything I might say, but
3 people can take things and perceive them in the
4 wrong ways.

5 Does that answer your question? 13:08:23

6 Q. So Marilyn Fellenstein never gave
7 you any direct indication that she thought you
8 were bipolar?

9 A. Nobody ever said the word "bipolar"
10 to me. I know some of the other nurses in the 13:08:34
11 units have said it.

12 Q. Please answer my question.

13 A. I found out and heard about it
14 afterwards, but not Marilyn Fellenstein, that I
15 am aware of. 13:08:49

16 Q. How about Jane Ragozine, did she
17 ever make any comments to you that made you
18 think -- let me strike that.

19 Did Jane Ragozine ever make any
20 comments to you that would indicate that she 13:09:10
21 thought you were bipolar?

22 A. No.

23 Q. Did Marilyn Fellenstein ever make
24 any comments to you that would indicate that
25 she thought you had any sort of disability? 13:09:24

1 MR. MYERS: Objection. Go ahead
2 and answer.

3 A. No.

4 Q. Same question for Jane Ragozine.

5 Did she ever make any comments to you that 13:09:39

6 would indicate that you had any sort of

7 disability?

8 A. No.

9 MS. LAWRENCE: Let's go off the

10 record a second. 13:09:52

11 (Discussion off record.)

12 (Lunch recess taken.)

13 - - - - -

14

15

16

17

18

19

20

21

22

23

24

25

Kimberly J. Belzer

129

1 AFTERNOON SESSION

2 CONTINUED EXAMINATION OF KIMBERLY J. BELZER

3 BY MR. LAWRENCE:

4 Q. After Marilyn Fellenstein you
5 reported to Judy Ezzie, correct?

14:06:12

6 A. Correct.

7 Q. Did you enjoy working with Ms.
8 Ezzie?

9 A. For the most part.

10 Q. Describe your working relationship.

14:06:25

11 A. In the beginning up until about the
12 last three or four months, I could always go in
13 Judy's office, talk to her. She told me that I
14 could. But when it got towards the tail end
15 there, I was seeing that I was getting written
16 up constantly and something was going on and I
17 didn't go approach her to talk to her anymore.

14:06:44

18 Q. So something changed within the
19 last three to four months of your employment?

20 A. As far as feeling comfortable
21 enough to go talk to Judy about things.

14:07:01

22 Q. Do you know why your relationship
23 with her changed?

24 A. I don't have the slightest idea.

25 Q. Other than the write-ups, did Judy

14:07:21

130

1 saying anything to you that would lead you to
2 believe your relationship changed within the
3 last three to four months of your employment?

4 A. I don't remember what was said, but
5 I know I went in her room and she just was
6 yelling at me.

14:07:33

7 Q. What was she yelling at you about?

8 A. Something about, Kim, I'm getting
9 tired of this.

10 Q. What was she getting tired of?

14:07:41

11 A. Me being in her office and being
12 written up.

13 Q. She was getting tired of
14 disciplining you?

15 A. She said she was getting tired of
16 this. I don't know what she meant or referred
17 to, whether it was writing me up or she just
18 said she's getting tired of it. She was
19 yelling at me. It's like, it was like a person
20 that I didn't know.

14:07:50

14:08:04

21 Q. So she seemed upset?

22 A. Yeah.

23 Q. Prior to the last three to four
24 months, you had no problems whatsoever with
25 her?

14:08:17

1 A. I can't say whatsoever. I would go
2 and talk to Judy about situations or incidents
3 with coworkers or situations and she just kind
4 of listened, not have too much to say. Just
5 felt like she wasn't doing anything about it.

14:08:35

6 Q. Wasn't doing anything about what?

7 A. Some of the situations and problems
8 that were going on.

9 Q. We've talked about some of those
10 situations today already, so I don't want to
11 belabor the point, but is there anything, other
12 than what you've told me, other situations that
13 you brought to Judy Ezzie that you haven't told
14 me about yet?

14:08:52

15 A. I know there was one time with
16 Tracie Woods that I had told Judy, I said,
17 nothing good or nice comes out of that girl's
18 mouth. And it's very hard to work with
19 somebody when all you hear is negative. It's
20 just making comments about other people, other
21 nurses there at work, derogatory comments.
22 I've even heard out of her and some of the
23 other people making comments about patients.

14:09:08

14:09:24

24 Q. What derogatory comments did Tracie
25 Woods make?

14:09:47

1 A. I'm trying to think of specifics.
2 I remember hearing about her and Nan both were
3 talking about Michelle Stewart, who is
4 Dr. Stewart's wife, the perinatologist, that
5 recently they had twins and they adopted a boy 14:10:27
6 and going around, making comments she shouldn't
7 be getting another baby, they can't take care
8 of the ones they've got. The kids still sleep
9 in bed with them at night and they're still on
10 sippy cups, just making comments about other 14:10:41
11 people's personal lives that they really had no
12 business talking about in a group. People can
13 have their opinions, but you keep it to
14 yourselves.
15 Q. Any other comments by Tracie Woods 14:10:59
16 that are derogatory?
17 A. A lot of different comments on my
18 weekend and stuff. I can't think of any right
19 now. I'll try to think about more of them.
20 I tried to tune myself out of a lot 14:11:13
21 of negativity and stay away from it.
22 Q. Sure. How about who made comments
23 about patients?
24 A. I've heard almost everybody make
25 comments about patients. Oh, did you see who 14:11:28

1 she is with? Oh, my God, her husband is 40
2 years older than she is, or just, you know,
3 derogatory comments that people shouldn't be
4 making about other people.

5 Q. Who said that?

14:11:42

6 A. I don't remember for sure who said
7 it.

8 Q. Any other comments about patients?

9 A. About patients, no. But I remember

10 somebody made a comment about Dr. Lengyel's

14:12:13

11 husband that he has psychiatric issues and that

12 he was back in the fishbowl sitting back there

13 waiting for his wife to do a delivery and

14 somebody complained about that and they

15 wouldn't let him come back again. She

14:12:30

16 wanted --

17 Q. Who is this?

18 A. Dr. Lengyel, L E N G Y E L. She

19 doesn't come to general, I don't think, much

20 anymore.

14:12:42

21 Q. Her husband is not a doctor?

22 A. Huh-uh. It got back to her and she

23 even called me at home and wanted me to help

24 her out. And I told her right then at that

25 period of time my husband was newly diagnosed

14:12:57

134

1 with MS and I don't need to be given a hard
2 time. If I go help you, I know something bad
3 will come out of it.

4 Q. Were you present when the comment
5 was made regarding Dr. Lengyel's husband?

14:13:16

6 A. Yes.

7 Q. Where were you?

8 A. At the nurses' station.

9 Q. Who made the comment?

10 A. Michelle Stewart and, oh, gee, he's
11 now left, he's not a resident anymore. Thomas,
12 Dr. Thomas. I forget his first name.

14:13:33

13 Q. Michelle Stewart is an RN?

14 A. Uh-huh.

15 Q. Who made the comment, Michelle
16 Stewart or Dr. Thomas?

14:13:50

17 A. Dr. Thomas.

18 Q. When was that?

19 A. Three, four years ago. So after
20 all that happened they wouldn't let Dr.

14:14:07

21 Lengyel's husband come back. And then when I
22 wouldn't help her out, she told me, because I
23 was a patient of hers, that she wouldn't see me
24 anymore and then if I wanted my medical
25 records, I'd have to pay for them.

14:14:20

1 Q. That's -- you saw Dr. Lengyel three
2 to four years ago?

3 A. I was a patient of hers for years.
4 I haven't seen an OB-GYN since. Because she
5 was mad at me because I wouldn't help her out. 14:14:38
6 Because I got to work with these nurses and
7 doctors and they can make my life hell.

8 Q. Was anyone else present when the
9 comment was made?

10 A. Oh, I'm sure there was, but I don't 14:14:57
11 remember who they were.

12 Q. You don't have a recollection of
13 anyone?

14 A. No. There's always comments made
15 with always a bunch of people around and we're 14:15:08
16 talking years and years and years and years
17 ago. I can't remember who said what all the
18 time, do you know what I'm saying, or who was
19 present when who said what. There's been a lot
20 of -- hospital is a Peyton Place. 14:15:24

21 Q. So three to four months prior to
22 your termination, how would you describe --
23 characterize your relationship with Judy Ezzie?

24 A. I'd say it was fair to good.

25 Q. Did you think at that time that she 14:15:46

136

1 harbored any ill will toward you?

2 A. No, I didn't think it was, but
3 after that period of time, the last three or
4 four months, there was definitely some ill
5 feeling or ill -- enough to the point that she
6 felt she had to terminate my employment. No
7 patient harm had ever come to anyone under my
8 care, but for some reason she wanted me gone.

14:15:58

9 - - - - -
10 (Thereupon, Defendant's Deposition
11 Exhibit Q was marked for purposes of
12 identification.)

13 - - - - -
14 Q. Handing you a document that's
15 marked Defendant's Exhibit Q, please review
16 that document and when you're finished,
17 identify it.

14:16:23

18 A. My evaluation from 06.

19 Q. Referring to the last page, Bates
20 labeled 267, is that your signature at the
21 bottom?

14:17:16

22 A. Yes.

23 Q. And is that Miss Ezzie's signature
24 as well?

25 A. Yes.

14:17:25

137

1 Q. It acknowledges you reviewed the
2 contents with your supervisor, correct? That's
3 what the writing above your signature says?

4 A. That I received it in a timely
5 manner.

14:17:37

6 Q. "I acknowledge I reviewed the
7 contents of this appraisal with my supervisor?"

8 A. Oh, yes.

9 Q. Do you recall reviewing this with
10 your supervisor?

14:17:42

11 A. Yes.

12 Q. Turn to page Bates label 262,
13 please.

14 A. Okay.

15 Q. Patients First is the first
16 section. "Demonstrates actions and behaviors
17 that place patient needs at the core of all
18 decisions, functions and actions.

14:17:57

19 Exhibits an understanding of how
20 individual departmental and organizational
21 performance impacts patient care.

14:18:11

22 Anticipates, recognizes and
23 responds to patient needs in a caring and
24 compassionate manner, and contributes to a
25 safe, supportive and positive patient

14:18:21

1 experience."

2 Did I accurately read what that
3 section is designed to assess?

4 A. Yes.

5 Q. You got a ranking of what in that 14:18:31
6 section?

7 A. 2.

8 Q. And 2 means "Occasionally does not
9 demonstrate safe, caring and compassionate
10 behavior towards patients' needs," correct? 14:18:40

11 A. I don't see where you're reading
12 that from.

13 Q. The number 2 below it.

14 A. Meaning, "Occasionally does not
15 demonstrate safe, caring and compassionate 14:18:56
16 behavior towards patients," is that what you
17 just read.

18 Q. Uh-huh.

19 A. That's what it says.

20 Q. Did you object at the time you 14:19:07
21 received this 2 rating on Patients First?

22 A. I don't see any comments on my
23 part.

24 Q. So that would mean no, you did not
25 object? 14:19:29

139

1 A. Oh, I definitely object, but I
2 didn't write it down.

3 Q. Did you say anything out loud?

4 A. Could have. Probably did.

5 Sometimes --

14:19:41

6 Q. What did you say?

7 A. I don't remember. Sometimes I
8 wouldn't write things in these comments because
9 you'd be so disappointed and you'd feel very
10 had that somebody would write that about you
11 and you don't believe it and I just sometimes
12 didn't respond to it.

14:19:50

13 Q. Do you recall saying anything with
14 respect to this 2 rating?

15 A. I can't say for sure if I did or
16 didn't, no.

14:20:02

17 Q. Next page, please, 263. Caring.
18 Almost to the end of the page. They have
19 caring defined as "Demonstrates caring actions
20 and behaviors toward patients, families,
21 visitors, medical staff, and coworkers, through
22 open communication, mutual respect and
23 compassion.

14:20:21

24 Anticipates, listens and responds
25 with empathy to others in need.

14:20:30

140

1 Demonstrates appropriate written,
2 verbal and nonverbal communicating resulting in
3 an approachable nature.

4 Treats everyone with dignity,
5 courtesy and respect."

14:20:41

6 Is that what that says?

7 A. Yes, it does.

8 Q. You received a 2 rating there?

9 A. Yes.

10 Q. Which means "Occasionally does not
11 demonstrate actions or behaviors that respond
12 to or meet the needs of others," correct?

14:20:47

13 A. That's what it says.

14 Q. Next page, Integrity.

15 "Demonstrates integrity through appropriate
16 actions and behaviors that support AGMC's
17 mission, vision and values, policies and
18 procedures, and code of conduct through
19 honesty, trustworthiness and mutual respect.

14:21:02

20 Maintains confidentiality and
21 privacy of work and patient-related
22 information.

14:21:14

23 Exhibits an understanding of the
24 impact of own behavior on the organization and
25 community.

14:21:22

1 Takes accountability for meeting
2 the needs and expectations of patients,
3 families, visitors, guests, medical staff and
4 coworkers."

5 Do you see where I'm referring? 14:21:32

6 A. Yes, I do.

7 Q. You received a 2 rating there as
8 well?

9 A. Yes.

10 Q. Which means, "Occasionally does not 14:21:36
11 respect the privacy of others. Conduct does
12 not always demonstrate mutual respect and
13 understanding of others' needs." Correct?

14 A. Correct.

15 Q. And there's a place on page 266 for 14:21:46
16 employee comments?

17 A. Uh-huh.

18 Q. And you didn't write anything,
19 correct?

20 A. Correct. 14:21:53

21 Q. And you don't remember whether or
22 not you voiced any concerns at that time?

23 A. I don't remember.

24 - - - - -

25 (Thereupon, Defendant's Deposition

1 Exhibit R was marked for purposes of
2 identification.)

3 - - - - -

4 Q. Handing you a document marked
5 Defendant's Exhibit R, please take a moment to 14:22:26
6 review that document. When you're finished,
7 please identify it.

8 A. This is my evaluation from I think
9 it's 07. Yeah.

10 Q. Do you recall receiving this 14:23:28
11 document?

12 A. 07, my signature is not here nor is
13 anybody else's, but I think I received it.

14 Q. Well, I'll help you out. The
15 bottom of the page contains Bates label numbers 14:23:58
16 which indicate that this document was produced
17 to us in discovery by your attorney.

18 A. Okay. Then I received it.

19 Q. It's not signed, correct?

20 A. I don't see a signature on my copy. 14:24:17

21 Q. Page 2, which is Belzer 107, if I
22 could direct your attention there, please?

23 MR. MYERS: Page 3.

24 Q. Page 3. Again, in the Integrity
25 section you received an improvement needed 14:24:46

143

1 rating, correct?

2 A. That's what it says.

3 Q. And the next page, Belzer 108,
4 again, in the Caring section you received an
5 improvement needed rating, correct?

14:25:01

6 A. Correct.

7 Q. Did you disagree with these
8 assessments?

9 A. Yes, I do.

10 Q. Did you provide any comments?

14:25:09

11 A. No, I didn't even sign it. That
12 might have been when we might have had to sign
13 on the computer. I'm not sure.

14 Q. Do you remember making any oral
15 objections to your 2007 performance review?

14:26:06

16 A. No, I do not recall.

17 Q. You don't recall one way or the
18 other whether you made any written comments?

19 A. I do not recall.

20 - - - - -

21 (Thereupon, Defendant's Deposition
22 Exhibit S was marked for purposes of
23 identification.)

24 - - - - -

25 Q. Handing you a document marked

14:26:46

Kimberly J. Belzer

144

1 Defendant's Exhibit S, please take a minute to
2 review it, and when you're finished, identify
3 it.

4 A. This is a performance review for
5 08.

14:28:09

6 Q. Turning to the last page, 823?

7 A. Yes.

8 Q. Looks like this was an electronic
9 acknowledgment, correct?

10 A. Correct.

14:28:22

11 Q. And do you have any reason to
12 dispute that you acknowledged receipt on
13 3-18-2008 at 1:39?

14 A. No, I don't.

15 Q. Judy Ezzie was your supervisor at
16 that time?

14:28:31

17 A. Correct.

18 Q. What is relationship-based care?

19 A. It's a new mode of -- they had just
20 started talking about it before I left -- a new
21 mode of patient care. I don't know a whole lot
22 about it.

14:28:47

23 Q. Isn't it true that
24 relationship-based care encourages nurses to
25 provide care at the bedside?

14:29:07

1 A. I feel that all nursing should be
2 done by the bedside.

3 Q. That's not my question.

4 MR. MYERS: Objection. She already
5 testified she didn't know what it really
6 meant --

14:29:17

7 A. They were just starting it when I
8 left and I really -- I know that everybody had
9 to go through classes.

10 Q. And you didn't?

14:29:27

11 A. No, because they hadn't started the
12 classes yet.

13 Q. Were you ever provided any reading
14 material on relationship-based care?

15 A. I borrowed a book from Judy.

14:29:38

16 Q. Did you read it?

17 A. No, because I left. I received it
18 very shortly before I left. As a matter of
19 fact, I still have the book.

20 Q. Turn to page 817, please.

14:29:50

21 A. Okay.

22 Q. Again, in Integrity in 2008 you
23 were provided an improvement needed rating,
24 correct?

25 A. Correct.

14:30:04

146

1 Q. And, again, in Caring in 2008 you
2 were provided an improvement needed rating,
3 correct?

4 A. Correct.

5 Q. Then in the Recommended Improvement 14:30:24
6 section, which is on page 822, you're again
7 told to improve your inappropriate verbal
8 interactions with patients which possess the
9 potential to physically harm emotionally
10 disturb or embarrass an individual. Failure to 14:30:39
11 be courteous, respectful and compassionate
12 towards patients, physicians and coworkers,
13 referencing final written warning for
14 violations of standards of conduct. Correct?

15 A. Correct. 14:30:57

16 Q. Did you provide any written dispute
17 of any of the feedback provided in the 2008
18 evaluation?

19 A. I don't see any comments here.

20 Q. Do you recall making any oral 14:31:10
21 comments when it was presented to you?

22 A. No, I don't recall.

23 Q. When these were provided to you
24 over the computer, what was the mechanics of
25 that? Did you still sit down with your 14:31:23

Kimberly J. Belzer

147

1 supervisor and go --

2 A. You sat in Judy's office next to
3 her and she went over them.

4 Q. You still went over the
5 evaluations?

14:31:32

6 A. Uh-huh.

7 Q. Page 821, middle of the page,
8 "Adheres to values/guest standards and guiding
9 principles." What's guiding principles mean?

10 A. I'm not sure.

14:32:11

11 Q. You were provided an improvement
12 needed there?

13 A. Yes.

14 Q. So Ms. Ezzie gave you two ratings
15 on Integrity in all three of the performance
16 evaluations I put in front of you, correct?

14:32:51

17 A. Correct.

18 Q. Why do you believe you received
19 that rating?

20 A. I think there were nurses that went
21 in to complain to Judy on a regular basis and
22 that was her way, I think, of doing something
23 about it. Plus, I also feel that some of these
24 reports or letters that they have gotten that I
25 don't agree with also probably persuaded her to

14:33:09

14:33:37

1 give me a 2.

2 Q. Some of these evaluations occurred
3 prior to any discipline from Miss Ezzie?

4 A. Correct. As far as -- yes.

5 Q. She also gave you a needs 14:33:52
6 improvement rating on the Caring category. Why
7 do you believe you received the improvement
8 needed rating?

9 A. I don't feel that that was fair.

10 Q. Okay. 14:34:10

11 A. I'm a very caring and empathetic
12 person.

13 Q. Why do you believe that you
14 received that rating?

15 A. I don't know why. 14:34:25

16 Q. So with respect to the integrity,
17 you think it was because other nurses said
18 things to Judy and not because of anything that
19 you did, correct?

20 A. I can't say that it's not because 14:34:51
21 of anything I did. Whether --

22 Q. I'm asking you why.

23 A. Whether I used a different tone,
24 flexion, eye communication, body language, some
25 people can perceive things that aren't true or 14:35:03

1 accurate.

2 Q. I'm not following you. Are you
3 saying you were misperceived?

4 A. I think that could have been also a
5 part of it.

14:35:17

6 Q. Is that what you were saying?

7 A. What I was trying to explain to
8 you?

9 Q. Right.

10 A. Right, I think I've been

14:35:24

11 misperceived.

12 Q. Any other reasons why you would
13 have received a 2 rating in integrity or care?

14 A. Not that I'm aware of.

15 Q. Who is Cathy Lutz?

14:35:39

16 A. She used to be the head nurse on
17 perinatal unit. I hear she's no longer there.

18 Q. Prior to actually last night, I
19 received a fax from your attorney that
20 contained 45 pages of documents, many of which

14:36:23

21 were handwritten notes that looked like they
22 were from you. Were those notes all one
23 document or different documents with different
24 dates?

25 A. They were all different -- I don't

14:36:33

1 understand what you mean.

2 Q. There was a lot of pages of
3 handwritten notes.

4 A. Right.

5 Q. Were they all written at the same 14:36:39
6 time?

7 A. Over a period of a few days or
8 whatever. It was just my response to the
9 written statements.

10 Q. When were they written? 14:36:51

11 A. Some of them I have made notes
12 after I was terminated, shortly thereafter.
13 But I didn't complete all of them at that
14 period of time and I went through and made sure
15 that I had put everything in there that I 14:37:29
16 wanted -- basically what that was shortly
17 thereafter, when we all met in the board room
18 at the hospital with the ONA representatives.
19 So that was probably around middle of June.

20 Q. Of 2008? 14:37:50

21 A. Correct.

22 Q. Is when you compiled those notes?

23 A. Not totally, but I started -- I was
24 working on them and added more things as I
25 could think of and was remembering. 14:38:03

151

1 Q. When did you complete them?

2 A. When did I complete them, I'm not
3 real sure.

4 Q. When did you provide them to your
5 attorney?

14:38:15

6 MR. MYERS: You can say when you
7 provided them to me. That's fine. If you
8 remember.

9 A. I don't really remember. After I
10 started to see the attorney. I don't know.
11 Somewhere after I had seen him.

14:38:29

12 - - - - -

13 (Thereupon, Defendant's Deposition
14 Exhibit T was marked for purposes of
15 identification.)

16 - - - - -

17 Q. Handing you a document that's been
18 marked Exhibit T, can you identify Exhibit T
19 for me, please?

20 A. It's an employee discipline
21 documentation.

14:39:00

22 Q. It's a two-page document, correct?

23 A. Yes.

24 Q. What's the second page, if you
25 know?

14:39:17

1 A. Can I read it here a minute,
2 please?

3 Q. Please take your time.
4 (Discussion off record.)

5 A. To be honest, I don't really 14:41:18
6 remember this.

7 Q. Is that your signature on the
8 bottom?

9 A. Yes, it is. I don't know why Cathy
10 would be writing this because she wasn't my 14:41:34
11 head nurse.

12 Q. This is a counseling or
13 predisciplinary step, correct?

14 A. Correct. It's an employee
15 counseling. 14:41:51

16 Q. Dated June 3rd of 2004?

17 A. Correct.

18 Q. You don't remember the event that's
19 described on the second page; is that what your
20 testimony is? 14:42:13

21 A. No, I do not. Yes.

22 Q. You don't remember receiving the
23 discipline?

24 A. No, I don't.

25 Q. Are you denying that you received 14:42:21

1 the discipline?

2 A. No, I'm not denying it. It's my
3 signature there. I don't remember this
4 scenario. Normally I'm done at 3:30 unless I
5 pick up extra or I was on call and I don't
6 remember this situation.

14:42:45

7 Q. In 2004, you were on the day shift?

8 A. Like I said, sometimes I work 7 to
9 3, pick up 3 to 7 p.m. extra, sometimes you're
10 on call.

14:43:03

11 Q. So you don't remember?

12 A. No, I do not.

13 - - - - -

14 (Thereupon, Defendant's Deposition
15 Exhibit U was marked for purposes of
16 identification.)

14:43:23

17 - - - - -

18 Q. Handing you a document that's been
19 marked Defendant's Exhibit U, what is Exhibit
20 U?

14:43:29

21 A. Employee discipline documentation.

22 Q. And that's dated 3 -- I'm sorry,
23 2-27-06, correct?

24 A. Pardon me?

25 Q. That's dated 2-27-06, correct?

14:43:41

1 A. Correct.

2 Q. And that's your signature at the
3 bottom?

4 A. Correct.

5 Q. And Judy Ezzie's signature below 14:43:49
6 it, correct?

7 A. Correct.

8 Q. What were the circumstances leading
9 to this discipline?

10 A. From what I can remember of this 14:44:00
11 one, this patient was an LDR 10. She had been
12 there for a few days. I don't remember how far
13 along in her pregnancy she was, but this
14 statement that they thought I had said, I did
15 not state. I always tell patients, always try 14:44:23
16 to get them off their back because the baby and
17 them get more oxygen that way.

18 Q. You deny saying, If you want to lay
19 on your back and stop all oxygen flow to your
20 baby, go ahead? 14:44:39

21 A. I would never say that to somebody.

22 Q. So if the patient reported that you
23 said that, the patient would be lying?

24 A. Yes.

25 Q. And in the employee comments 14:44:45

1 section, you objected to the discipline,
2 correct?

3 A. Correct.

4 Q. "The EAP program was recommended to
5 employee with brochure provided," this says. 14:44:56
6 Do you see where I'm referring in the
7 supervisor's comments section --

8 A. Yes.

9 Q. -- the last sentence? What's the
10 EAP program? 14:45:04

11 A. Employee -- it's like a counseling,
12 you go talk to them. I don't know what the EAP
13 stands for.

14 Q. Not what the acronym stands for.
15 What is it to your understanding, what it -- 14:45:20

16 A. It's like if you would like to go
17 and talk to somebody, you can.

18 Q. Is that the same as the CARE
19 program --

20 A. I think it's a different type 14:45:28
21 program. I'm not sure. Probably both --

22 Q. How do they differ --

23 A. I have no idea. I've never used
24 any of the programs up until -- I'm sure we'll
25 be getting to that. 14:45:40

1 Q. So the EAP program was recommended
2 to you February 27th of 06. You did not
3 participate in it at that time?

4 A. No. I didn't feel that I needed
5 to.

14:45:59

6 Q. Why not?

7 A. Because I didn't make the statement
8 to the patient.

9 - - - - -
10 (Thereupon, Defendant's Deposition
11 Exhibit V was marked for purposes of
12 identification.)

13 - - - - -
14 Q. Handing you a document marked
15 Defendant's Exhibit V, can you review that
16 document and when you're finished on --

14:46:47

17 A. Employee discipline, written
18 warning 1.

19 Q. So this is a written warning?

20 A. Yes, it is.

14:46:59

21 Q. That's different than the oral
22 counseling from the previous exhibit, correct?

23 A. The previous was a work rule.

24 Q. The level of discipline was
25 different, correct?

14:47:17

Kimberly J. Belzer

157

1 A. Yes.

2 Q. What do you mean the previous was a
3 work rule?

4 A. It's marked work rule.

5 Q. Okay. As is this next one, 14:47:33
6 correct?

7 A. Correct. Says -- correct.

8 Q. Tell me about the circumstances
9 that led you to receiving -- let me back up.

10 That's your signature on Exhibit V, 14:47:56
11 correct?

12 A. Correct.

13 Q. Judy Ezzie's below?

14 A. Correct.

15 Q. And Ann Kaser's below that? 14:48:04

16 A. Correct.

17 Q. Who is Ann Kaser?

18 A. The ONA representative.

19 Q. Was Miss Kaser present at the time
20 you were provided this discipline? 14:48:17

21 A. Yes, she was.

22 Q. What are the circumstances that led
23 to this discipline?

24 A. From what I remember, Dr. Huynh had
25 given an order to give the Pitocin. I don't 14:48:43

1 know if it was every 25 or 30 minutes. I don't
2 have the chart in front of me with the order so
3 I don't know for sure.

4 And he was upset with me because I
5 didn't up the Pitocin every 20 to 30 minutes. 14:49:00
6 A lot of times we won't do that if the patient
7 is contracting adequately every two to three,
8 three to four minutes, we will leave the
9 Pitocin there for a while to let -- the
10 synthetic oxytocic will stimulate what their 14:49:17
11 own body produces. And I had asked him what he
12 was in such a hurry about.

13 Q. This is when you questioned why he
14 was increasing the Pitocin?

15 A. He was mad at me because I wasn't 14:49:34
16 increasing the Pitocin every 20, 30 minutes
17 and --

18 Q. That's what he had ordered you to
19 do, correct?

20 A. He had written that order, but at 14:49:42
21 times, all of us nurses have not upped it every
22 20 to 30 minutes, when the doctor wants it, if
23 they're contracting adequately.

24 Q. I understand. Let's turn to the
25 second page. 14:49:56

159

1 A. That's where I'm at.

2 Q. He says that at approximately
3 12:30 -- no, the nurse was instructed to
4 continue increasing Pitocin. How were you
5 instructed?

14:50:06

6 A. They tell you keep upping the Pit.

7 Q. He verbally told you to up the
8 Pitocin, correct?

9 A. I remember, yes, that he did say
10 that.

14:50:20

11 Q. And you didn't up the Pitocin,
12 right?

13 A. Well, from 12:45 to 2:00, it looks
14 like it was still 12 at milliunits. I guess I
15 didn't.

14:50:48

16 Q. Between 12:30 and 2:00 you did not
17 up the Pitocin?

18 A. 12:45 and 2:00, I'd have to have
19 the chart in front of me to be able to see it,
20 but that's what he wrote here.

14:50:59

21 Q. That was because you thought that
22 he was in too much of a hurry?

23 A. Number one, the patient was
24 contracting adequately; and number two, I asked
25 him why he was in such a hurry. This happens

14:51:17

1 frequently. Doctors will very frequently, Pit,
2 Pit her, Pit her, Pit her, Pit her. They want
3 patients -- the Pitocin to keep cranking and
4 going up for whatever their reason might be for
5 that day.

14:51:37

6 Q. And you didn't discuss Dr. Huynh's
7 reasons with him, correct?

8 A. I asked him. I asked him what the
9 hurry was.

10 Q. Okay. But you didn't discuss the
11 medical reasons as to why he wanted the Pitocin
12 increased, correct?

14:51:46

13 A. We know what the medical reasons
14 are. They want the patient to contract so they
15 dilate to have the baby come out.

14:51:55

16 Q. But you just decided you weren't
17 going to do it?

18 A. I didn't just decide it. For some
19 reason the patient was contracting adequately.

20 Q. So Dr. Huynh again instructs you to
21 increase the Pitocin, correct?

14:52:05

22 A. Not after that period of time. I
23 went into the back room where they all were and
24 I went in there to talk to him.

25 Q. Okay. Did you tell him at that

14:52:41

1 time that he needed to stop riding you?

2 A. Yes, because he -- ever since the
3 incident when I delivered the baby, Dr. Huynh
4 would always give me a difficult time. He
5 would ride me. He would make derogatory
6 comments, I want this done, and if it wasn't
7 done when he wanted it done or right away, he'd
8 ride me.

14:52:55

9 Q. What derogatory comments did he
10 make to you?

14:53:08

11 A. I can't remember right at the
12 moment exactly what derogatory comments were
13 made, but there were plenty of them made.

14 Q. Did he call you names?

15 A. Possibly.

14:53:26

16 Q. But you don't remember?

17 A. I don't remember at this time, no.

18 Q. But he could have called you names;
19 you just don't remember?

20 A. At the moment, no, I don't remember
21 what all he said to me. But he made my life
22 miserable and he rode me.

14:53:33

23 And I did not tell him I could make
24 his life miserable. I told him that my brother
25 was a physician and I treat him with respect,

14:53:47

1 he treats his coworkers and his patients with
2 respect, and I felt that he needed to treat me
3 with respect. And that I have been -- I was
4 older than he was and that I have more
5 experience and I felt that he was not showing
6 me respect. And he said that he isn't riding
7 me, that he just -- I couldn't be riding her
8 because he stopped talking to me. He only
9 talked to me when he had to.

14:54:05

10 Q. Okay.

14:54:24

11 A. That was quite evident. He avoided
12 me like the plague in the unit. And sometimes
13 I would even talk to him or ask him something,
14 he totally ignored me and walked away.

15 Q. That was after that experience when
16 you delivered the baby on your own?

14:54:37

17 A. I've been treated miserably by him
18 ever since then.

19 Q. You deny telling him that you would
20 make his life miserable?

14:54:49

21 A. Yes, I do deny that I ever said
22 that. I did tell him that if I need to, I'll
23 go talk to Dr. Jenison about this. This is
24 what prompted all this letter because he didn't
25 like the idea that some nurse was going to go

14:55:04

1 talk to his superior boss about him.

2 Q. Did he tell you that?

3 A. No, but that's what I feel is why
4 he wrote this letter.

5 Q. Do you have any facts to 14:55:19
6 substantiate that?

7 A. I think the statement itself that
8 he stopped talking to me, I could hear him,
9 he'd make comments to other nurses. I don't
10 remember what comments. I just know a lot of 14:55:58
11 people didn't get along with Tuan.

12 Q. A lot of people didn't get along
13 with him?

14 A. No.

15 Q. Who else didn't get along with him? 14:56:07

16 A. A lot of the other nurses.

17 Q. Who else?

18 A. I don't remember who else right at
19 the moment. All I know is Tuan is --

20 Q. How about Lori Wykoff, did she get 14:56:28
21 along with him?

22 A. I don't know. I know for quite a
23 few years he was not confident in himself at
24 all and we all could tell that.

25 Q. Okay. 14:56:43

1 A. He was not confident and competent
2 and he had issues. He had written -- things
3 written up about him and he was called on the
4 carpet. I know of two. You could see a big
5 change in him after that.

14:57:00

6 Q. Is that why you told him that you
7 were older than him and more experienced and he
8 should show you respect?

9 A. Rephrase that, please.

10 Q. Is that why you told him that you
11 were older and more experienced and he should
12 show you respect?

14:57:14

13 A. No. I was tired of the way he was
14 treating me or you'd ask him a question and
15 he'd ignore me, or if he didn't ignore me, he'd
16 make some smart comment and I told him that I
17 am an elder and I do deserve respect and I'm
18 not -- I am competent. I know what I'm doing.
19 But they don't like people, nurses to tell them
20 or give them any suggestions.

14:57:44

21 Q. To residents?

22 A. Uh-huh.

23 Q. Let's go back to the first page,
24 Exhibit V.

25 A. Okay.

14:58:02

165

1 Q. EAP services were again recommended
2 to you, right?

3 A. Yes.

4 Q. Did you participate in the EAP
5 services at that time?

14:58:16

6 A. Not at that time.

7 Q. Why not?

8 A. I felt this was Dr. Huynh's
9 problem; not mine. Because this one is dated
10 12-7-06 and the other one is 2-27.

14:58:50

11 Q. What does that mean?

12 A. What do you mean?

13 Q. It was Dr. Huynh's problem because
14 one is dated in February and one --

15 A. No, it was Dr. Huynh's problem
16 because he didn't like anybody questioning him.

14:59:11

17 Q. It has handwriting here, "Action
18 plan will be developed to assist Ms. Belzer to
19 communicate in a more appropriate manner." Was
20 that written at the time you received that?

14:59:42

21 A. No.

22 Q. Did you discuss an action plan at
23 the time that you met?

24 A. No.

25 Q. Are you claiming this was added

14:59:48

1 after you signed it?

2 A. No. Just no action plan was ever
3 made.

4 - - - - -

5 (Thereupon, Defendant's Deposition
6 Exhibit W was marked for purposes of
7 identification.)

8 - - - - -

9 Q. Handing you a document marked
10 Defendant's Exhibit W, can you identify that 15:00:24
11 document, please?

12 A. This is follow-up action plan from
13 Judy Ezzie from the first written warning from
14 12 of 06 and it's dated 3-28-07.

15 Q. And so this is the action plan 15:01:00
16 that's referenced in the December 2006 --

17 A. These --

18 Q. Let me finish.

19 A. Sorry.

20 Q. -- discipline? 15:01:08

21 A. This is an action plan from the
22 first written warning on 12-06-2006.

23 Q. It enclosed the articles that are
24 noted in that bullet point when it was
25 delivered to you? 15:01:32

1 A. None of this was delivered to me
2 besides the relationship-based care, the book.
3 These articles were there and this is just a
4 reference for me to go and look them up.

5 Q. I see. So the only thing that was 15:01:44
6 provided to you besides this was the book on
7 relationship-based care?

8 A. Correct.

9 Q. And we already established that you
10 didn't read that? 15:01:53

11 A. Correct.

12 Q. How about --

13 A. I didn't get the book at this time,
14 though. I know I didn't because I didn't have
15 it for that long of period of time. Date 15:02:00
16 3-28-07, I did not have that book that long. I
17 didn't receive it until sometime in 08, early
18 part of 08.

19 Q. You didn't read it, right?

20 A. Not from 08, no. 15:02:24

21 Q. Did you ever look up the articles
22 that are referenced here?

23 A. I can't recall if I did or not.

24 Q. It also talks about you could --
25 strike that. 15:02:40

168

1 You could have looked them up, you
2 just don't remember one way or the other?

3 A. I could have. I could have looked
4 it up at work. I'm not real sure. I don't
5 recall.

15:02:49

6 Q. Did you look it up at home?

7 A. I don't look up things at home, no.
8 So if I did, it would have been at work.

9 Q. Did you explore any articles that
10 Ann Kaser may have made available to you?

15:03:05

11 A. Ann Kaser said she was going to
12 look up some articles and give them to me and
13 she never got back to me.

14 Q. You mean during the disciplinary
15 meeting in December 2006 -- I'm sorry, let me
16 rephrase that.

15:03:17

17 When did Ann Kaser tell you she
18 might have some articles for you?

19 A. I'm not real sure.

20 Q. Okay. Says here, "As she suggested
21 during the discipline meeting." Would that
22 have been the 12-06 discipline meeting?

15:03:32

23 A. I'm not sure.

24 Q. And you didn't follow up with her
25 after that meeting?

15:03:44

1 A. She works in the cancer treatment
2 center, so it's a whole other building. No, I
3 didn't get over there. She works different
4 days.

5 Q. Did you call her?

15:03:54

6 A. Not that I recall. I'm not sure.

7 Q. Would you have sent her an e-mail?

8 A. I don't do e-mails.

9 Q. Did you complain to anyone after
10 you received this December 13th, 2006

15:04:26

11 discipline?

12 A. Which one?

13 Q. December 13, 2006.

14 A. What do you mean who did I -- who
15 would I have meant --

15:04:44

16 MR. MYERS: Exhibit V.

17 Q. V.

18 A. I talked to Judy. I told her my
19 side of the story.

20 Q. And we've --

15:04:59

21 A. She didn't say much to me. I don't
22 know if she talked -- looks like Mark Davis got
23 a carbon copy. I'm sure Judy and Mark Davis
24 probably talked about it, but nobody got back
25 to me.

15:05:13

1 Q. So you did have an opportunity to
2 tell Judy your side of the story?

3 A. Yes, I did. I remember that.

4 Q. You didn't grieve this discipline,
5 correct? You didn't file a grievance?

15:05:24

6 A. No. What good would it do?

7 - - - - -

8 (Thereupon, Defendant's Deposition
9 Exhibit X was marked for purposes of
10 identification.)

11 - - - - -

12 Q. Handing you a document marked
13 Defendant's Exhibit X, can you identify that
14 document?

15 A. Employee discipline for not having
16 my NRP done. There were several of us that did
17 not have it done and Judy just wrote us all up.

15:05:55

18 Q. It says that your NRP expired in
19 05. Is that accurate?

20 A. I think it might have because I'd
21 been out with surgeries and other things that
22 had happened.

15:06:11

23 Q. What's NRP?

24 A. Neonatal resuscitation. We're
25 certified in it.

15:06:24

1 Q. This has your signature on the
2 bottom, correct?

3 A. Correct.

4 Q. And Judy Ezzie's signature?

5 A. Correct.

15:06:36

6 Q. And that's a counseling as well?

7 A. Yes.

8 Q. It says that certification will be
9 provided by hospital-based instructor. Do you
10 see where I'm referring?

15:06:47

11 A. Yes.

12 Q. Does that mean that the hospital
13 provides the instruction at its cost?

14 A. Yes.

15 Q. So you don't pay anything for that
16 certification?

15:06:54

17 A. No.

18 Q. Did you get it within the next 14
19 days or no later --

20 A. I did the written and it was all
21 done and Judy was supposed to do the hands on
22 and there were a few other people that did the
23 hands on. Judy said she'd do it and there was
24 myself, and I don't know who else, but there
25 were other people that Judy didn't do the hands

15:07:04

15:07:23

1 on and just gave us our cards and I was one of
2 them.

3 Q. So you're claiming that you were
4 given a card without having gone through the
5 training?

15:07:34

6 A. Hands on, yes, I do.

7 Q. Who else was involved in that?

8 A. There were other nurses that were
9 given their card, but I don't remember who they
10 were, but told me that they got their card and
11 Judy didn't make them do their hands on.

15:07:44

12 Q. That happened with you as well?

13 A. Yep.

14 Q. That was within the 14 days of this
15 discipline?

15:07:54

16 A. Yep.

17 - - - - -

18 (Thereupon, Defendant's Deposition
19 Exhibit Y was marked for purposes of
20 identification.)

21 - - - - -

22 Q. Handing you a document that's
23 marked Defendant's Exhibit Y, can you identify
24 that for me, please?

25 A. Employee discipline, counseling,

15:08:19

173

1 tardiness. Judy was on the warpath with people
2 and their tardiness and I might have gotten one
3 other one in 25 years.

4 Q. One other discipline related to
5 tardies?

15:08:41

6 A. Yeah. That's why I wrote in my
7 comments, "Yes, dear."

8 Q. Why did you write "Yes, dear" in
9 your comments?

10 A. That I won't be tardy anymore. It
11 says --

15:08:52

12 Q. Were you being --

13 A. You violated the policy by
14 reporting to work tardy three or more times in
15 a pay period. So that's my action plan.

15:09:03

16 Q. So you wrote "Yes, dear?"

17 A. Yeah. See it right there?

18 Q. I see it. What were you trying to
19 accomplish with that comment?

20 A. Just letting her know I won't be
21 tardy anymore.

15:09:18

22 Q. Were you trying to be sarcastic?

23 A. No.

24 Q. Were you trying to be funny?

25 A. Just making a comment, yes, I won't

15:09:26

1 be tardy anymore.

2 Q. Do you recall -- have you called
3 other supervisors dear?

4 A. I think we've all used terms of
5 endearment with different people at different 15:09:38
6 times.

7 Q. You consider this a term of
8 endearment that you wrote?

9 A. I consider it just a statement,
10 yes, dear. 15:09:45

11 Q. Were you being flip?

12 A. No.

13 Q. It says you were tardy three times
14 in one pay period.

15 A. Two weeks. 15:09:55

16 Q. You worked five days in two weeks,
17 correct?

18 A. That's what I guarantee the
19 hospital, but I'd pit work between a point 7
20 and point 9 plus call time in-between there. 15:10:05

21 Q. So you worked anywhere between 5
22 and 9 days within a two week period?

23 A. Correct.

24 - - - - -

25 (Thereupon, Defendant's Deposition

1 Exhibit Z was marked for purposes of
2 identification.)

3 - - - - -

4 Q. Handing you a multi-page document
5 marked Defendant's Exhibit Z, take a moment
6 to look at it. Let me know when you're
7 finished. 15:10:47

8 A. It's an employee discipline
9 document dated 2-27-09.

10 Q. Is that your signature on the 15:11:39
11 bottom of the first page?

12 A. Yes.

13 Q. There are nine pages that follow,
14 correct?

15 A. Correct. 15:12:00

16 Q. Was this documentation presented to
17 you in this fashion with the statements and the
18 policies attached?

19 A. No. I received this one. I
20 received 239 and 240 at one time. And then the 15:12:18
21 day before they must have received it -- I must
22 have gotten that at that time, 241 and 242.
23 And I'm not real sure when I received the
24 standards of conduct.

25 Q. What were the circumstances that 15:12:55

1 brought about this discipline?

2 A. Am I allowed to look at my notes or
3 not?

4 Q. From what you recall,

5 MR. MYERS: You can look at those 15:13:06
6 again later on. She'll show you those later on
7 probably. Testify to the best of your
8 knowledge.

9 A. It was a day that I was working at
10 triage, there were two nurses working and we 15:13:23
11 had student nurses. It's very difficult to
12 take care of -- I knew there was at least two
13 other patients waiting at the desk to get
14 checked in. So you've got students and I love
15 students, I love spending time and I love 15:13:41
16 teaching them, and they would follow you around
17 like little ducklings and you're trying to take
18 care of the patient, but still trying to teach
19 them.

20 This patient was in, I think, 15:13:54
21 treatment room 2 and she told me -- she was a
22 nursing assistant and she couldn't pronounce
23 this name of the drug that she was on. And I
24 couldn't get it from her. And I asked her if
25 she could spell it. And she had nausea and 15:14:12

1 vomiting. That's why she came in. And she was
2 upset with me because I asked her to spell it
3 and I thought, how can we treat you, I don't
4 know if that's a drug you're taking that's
5 making you nauseated, whether you need a nausea 15:14:28
6 drug. And she took offense, was not feeling
7 well, was angry that I asked her to spell the
8 drug.

9 And we were outside the door, I
10 remember, me and three nursing assistants. I 15:14:43
11 think they were Akron U students that day. And
12 we were talking about the unit or something and
13 the patient heard us laughing and she
14 automatically assumed we were talking about her
15 when we weren't. We wouldn't be standing right 15:14:59
16 outside her door talking about her and
17 laughing. That's not appropriate and we
18 wouldn't have been doing it. We were talking
19 about somebody else. It was a change of shift
20 with a lot of craziness going on, and that's 15:15:10
21 basically what I remember.

22 Then she asked to talk to Judy.
23 Judy went in and talked to her.

24 Q. So when she asked to talk to Judy,
25 you probably had a pretty good idea that she 15:15:29

1 was upset at that point, is that correct?

2 A. I was gone. I had already went
3 home for the day. I didn't know anything about
4 it.

5 Q. And you had trouble understanding 15:15:36
6 her saying Doxycycline?

7 A. But she didn't pronounce it that
8 way. I can't even tell you how she tried to
9 pronounce it. It was to the point where I
10 couldn't even understand what the drug was to 15:15:49
11 write it down, because we take a quick flow
12 sheet of how many times a person has been
13 pregnant, what medications they're on, what
14 their chief complaint is. We do like a triage
15 and -- 15:16:04

16 Q. When Judy Ezzie spoke to her, it
17 looks like she had no problem understanding
18 what she was saying.

19 A. That's because I think we got to
20 the bottom of it, what drug she was on after I 15:16:12
21 was quizzing her enough to let the doctors know
22 what medication she is on, what is she taking,
23 is the drug causing her nausea, does she have
24 nausea and vomiting problems, does she need
25 another medication? 15:16:27

1 We always evaluate the patients
2 before the doctors do, unless they're imminent
3 delivery.

15:16:36

15:16:42

15:17:04

15:17:14

15:17:21

1 there.

2 Q. What do you recall about the events
3 described in this letter? Let me back up.

4 Have you reviewed this letter?

5 A. Yes, I have. I'm trying to 15:17:38
6 remember some of my notes I made regarding this
7 letter. This letter absolutely upset me and
8 mortified me that a patient perceived me like
9 this. This is the worst letter that I have
10 ever seen, period. What really amazed me more 15:17:50
11 than anything is that this situation occurred
12 in 05 and three years later she decides to
13 write about it. I just -- some of these
14 things -- I forget what my notes are. I would
15 really like to look at my notes. 15:18:13

16 Q. She explains in the beginning why
17 it took her so long to write the letter,
18 doesn't she?

19 A. Well, she said she felt like she
20 should have wrote it after the delivery of her 15:18:24
21 second child, but I feel --

22 Q. She says, "Upon the delivery of my
23 second child, I received a welcome packet and
24 felt compelled to finally put my comments into
25 writing." Correct? 15:18:42

1 A. Where is that?

2 Q. First paragraph.

3 A. Yes, that's what it says.

4 Q. Then she goes on to say, "I should

5 preface this by saying it was the sincere 15:18:56

6 compassion that I received during the second

7 delivery that made me realize how intolerable

8 my first experience was." Those were her

9 words?

10 A. Yes, those were her words. I 15:19:09

11 really feel bad that the patient perceived her

12 delivery this way. I really do. This letter

13 saddened me.

14 And I also feel, to be honest with

15 you, that a lot of things were going on at this 15:19:32

16 period of time in February and I really feel

17 that maybe Dr. Shondel was approached and asked

18 or somehow this was generated at this period of

19 time for this reason.

20 Q. You feel that this was generated in 15:19:56

21 February 2008 for what reason?

22 A. Because I had been written up quite

23 a bit of times at that period of time and I

24 feel that Judy Ezzie wanted to get rid of me.

25 Q. And do you feel that Judy Ezzie 15:20:14